JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

GENERAL ASSEMBLY

of the

COMMONWEALTH OF KENTUCKY

Regular Session of 1978

Volume I

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1978, and
in the One Hundred and Eighty-sixth
Year of the Commonwealth

Begun on the Third Day of January, 1978, and Adjourned
Sine Die on the Eighteenth Day of March, 1978

Paid from State Funds

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Section 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the House of Representatives of 1978.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray and Mrs. Martha Jane Rogers prepared the 1978 House Journal. The edited copy and index found in this volume reflect the cooperative efforts of the commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky

JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION, 1978

TUESDAY, JANUARY 3, 1978

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 3, 1978, the one hundred and eighty-sixth year of the Commonwealth, in accordance with the provisions of the Constitution, Acting Clerk Sara Bell assumed the Chair and called the House to order.

Prayer by Reverend Bob Brown of the Trinity Baptist Church, Lexington, Kentucky.

The Clerk read the following certificate from the Secretary of State:

COMMONWEALTH OF KENTUCKY
FRANKLIN COUNTY

I, Drexell R. Davis, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky, and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 3rd day of January, 1978.

DREXELL R. DAVIS
Secretary of State
Commonwealth of Kentucky

Members of the House of Representatives

1978 Kentucky General Assembly

1ST DISTRICT Ward "Butch" Burnette (D)
194 Brookwood
Fulton, Kentucky 42041

2ND DISTRICT Lloyd Clapp (D)
P.O. Box 85
Wingo, Kentucky 42088

3RD DISTRICT Alice H. "Dolly" McNutt (D)
105 Country Club Lane
Paducah, Kentucky 42001

4TH DISTRICT J. W. "Johnny" Boatwright, Jr. (D)
Route 2, Box 191 Place Drive
Paducah, Kentucky 42001

5TH DISTRICT Kenneth C. Imes (D)
201 S. Third Street
Murray, Kentucky 42071

6TH DISTRICT J. R. Gray (D)
Route 3, Jackson School Road
Benton, Kentucky 42025

7TH DISTRICT David E. Boswell (D)
Route 6, Box 95
Owensboro, Kentucky 42301

8TH DISTRICT Henry Ramsey Morris, Jr. (D)
Route 2
Hopkinsville, Kentucky 42240

9TH DISTRICT James E. Bruce (D)
Route 1, 41A South
Hopkinsville, Kentucky 42240

10TH DISTRICT William T. "Bill" Brinkley (D)
311 Lake Street
Madisonville, Kentucky 42431

11TH DISTRICT Gross C. Lindsay (D)
783 Woodspoint Drive
Henderson, Kentucky 42420

12TH DISTRICT Roy Joe Head (D)
Route 1
Providence, Kentucky 42450

13TH DISTRICT Louis Johnson (D)
1511 Kent Place
Owensboro, Kentucky 42301

14TH DISTRICT Donald J. Blandford (D)
Route 1, King Road
Philpot, Kentucky 42366

15TH DISTRICT Philip Stone (D)
620 Greenville Road
Central City, Kentucky 42330

16TH DISTRICT Lewis Foster (D)
Route 2
Lewisburg, Kentucky 42256

17TH DISTRICT Willard "Woody" Allen (R)
Route 2, Box 123
Morgantown, Kentucky 42261

18TH DISTRICT Mary Ann Tobin (D)
U. S. 60
Irvington, Kentucky 40146

19TH DISTRICT Ronny Layman (R)
Route 1
Millwood, Kentucky 42762

20TH DISTRICT Jody Richards (D)
1022 Ridgecrest Drive
Bowling, Green, Kentucky 42101

21ST DISTRICT Buddy H. Adams (D)
Route 3
Bowling Green, Kentucky 42101

22ND DISTRICT Buel E. Guy (D)
Route 6
Scottsville, Kentucky 42164

23RD DISTRICT Bobby H. Richardson (D)
Route 7, Highway 31-E
Glasgow, Kentucky 42141

24TH DISTRICT Sam B. Thomas (D)
Route 1
Lebanon, Kentucky 40033

25TH DISTRICT Allen A. Craddock (D)
710 Woodland Road
Elizabethtown, Kentucky 42701

26TH DISTRICT Virgil L. Pearman (D)
952 North Woodland Drive
Radcliff, Kentucky 40160

27TH DISTRICT Archie N. Romines, Sr. (D)
13312 Tennis Blvd.
Valley Station, Kentucky 40272

28TH DISTRICT James R. "Jim" Dunn (D)
5009 Maryman Road
Pleasurer Ridge, Kentucky 40258

29TH DISTRICT Al Bennett (D)
3518 Blanton Lane
Louisville, Kentucky 40214

30TH DISTRICT Thomas J. Burch (D)
4850 Brenda Drive
Louisville Kentucky 40219

31ST DISTRICT Mark D. O'Brien (D)
36 S. Sheridan Road
Louisville, Kentucky 40220

32ND DISTRICT Bruce Blythe (R)
516 Altagate Road
Lousville, Kentucky 40206

33RD DISTRICT Bob Benson (D)
2937 White Plains Road
Louisville, Kentucky 40218

34TH DISTRICT
Gerta Bendl (D)
2403 Newburg Road
Louisville, Kentucky 40205

35TH DISTRICT
Carl A. Nett (D)
1268 Lydia Street
Louisville, Kentucky 40217

36TH DISTRICT
Claudia Riner (D)
1143 E. Broadway
Louisville, Kentucky 40204

37TH DISTRICT
M. J. "Jerry" Kleier (D)
335 West Southside Court
Louisville, Kentucky 40214

38TH DISTRICT
Dexter S. Wright (R)
526 S. Third Street
Louisville, Kentucky 40214

39TH DISTRICT
Lawrence Ray Maynard (D)
1340 South 6th Street
Louisville, Kentucky 40203

40TH DISTRICT
George R. Siemens, Jr. (D)
2919 1/2 Dixie Highway
Louisville, Kentucky 40216

41ST DISTRICT
Mae Street Kidd (D)
2308 West Chestnut Street
Louisville, Kentucky 40211

42ND DISTRICT
Aubrey Williams (D)
1310 Rosewell
Louisville, Kentucky 40211

43RD DISTRICT
Carl R. Hines (D)
635 Southwestern Parkway
Louisville, Kentucky 40211

44TH DISTRICT
James Bernard Yates (D)
2035 Thurman Drive
Shively, Kentucky 40216

45TH DISTRICT
Dottie Priddy (D)
9001 Whippoorwill
Louisville, Kentucky 40229

46TH DISTRICT
Harold Haering (R)
7709 Zenith Way
Louisville, Kentucky 40219

47TH DISTRICT
Edward L. Holloway (R)
10705 Sunderland Place
Middletown, Kentucky 40243

48TH DISTRICT
Louis Guenthner, Jr. (R)
6103 Rhodes Drive
Northfield, Kentucky 40222

49TH DISTRICT Frank J. Smith (D)
Box 222 Star Route
Shepherdsville, Kentucky 40165

50TH DISTRICT John Hurst (D)
Route 1, Plum Run Road
Bloomfield, Kentucky 40008

51ST DISTRICT Herman W. Rattliff (R)
Route 3
Campbellsville, Kentucky 42718

52ND DISTRICT Raymond Overstreet (R)
Riverview Estates
Liberty, Kentucky 42539

53RD DISTRICT Randolph Smith (R)
Albany Road
Monticello, Kentucky 42633

54TH DISTRICT Joe Clarke (D)
420 Boone Trail
Danville, Kentucky 40422

55TH DISTRICT Forest Aggie Sale (D)
520 Beaumont Avenue
Harrodsburg, Kentucky 40330

56TH DISTRICT John V. Carpenter, Jr. (D)
Route 4, Rainbow Drive
Nicholasville, Kentucky 40356

57TH DISTRICT C. M. "Hank" Hancock (D)
514 Murray Street
Frankfort, Kentucky 40601

58TH DISTRICT W. Stephen Wilborn (D)
614 Eighth Street
Shelbyville, Kentucky 40065

59TH DISTRICT Robert A. "Bob" Jones (D)
Lot 22, Farmington Lane, Box 203
Crestwood, Kentucky 40014

60TH DISTRICT William K. "Bill" McBee (D)
500 Florence Pike
Burlington, Kentucky 41005

61TH DISTRICT Clay Crupper (D)
Wilorn Street
Dry Ridge, Kentucky 41035

62ND DISTRICT Mark Fitzgerald
Route 1
Cynthiana, Kentucky 41031

63RD DISTRICT Louis DeFalaise (R)
33 West Maple
Fort Mitchell, Kentucky 41011

64TH DISTRICT Charles O. Petty (D)
686 Ridge Road
Covington, Kentucky 41015

65TH DISTRICT John J. Isler (D)
1813 Jefferson Avenue
Covington, Kentucky 41014

66TH DISTRICT Elmer C. Dietz (D)
514 Linden
Ludlow, Kentucky 41016

67TH DISTRICT Terry L. Mann (D)
19 Douglas Drive
Newport, Kentucky 41071

68TH DISTRICT William "Bill" Donnermeyer (D)
333 Bonnie Leslie Avenue
Bellevue, Kentucky 41073

69TH DISTRICT Arthur L. Schmidt (R)
134 Winters Lane
Cold Spring, Kentucky 41076

70TH DISTRICT Pete Worthington (D)
P. O. Box 16
Ewing, Kentucky 41039

71ST DISTRICT Woody May (D)
West Liberty, Kentucky 41472

72ND DISTRICT Jim LeMaster (D)
256 Swigert Avenue
Lexington, Kentucky 40505

73RD DISTRICT Paul W. Richardson, Sr. (D)
72 Milwood
Winchester, Kentucky 40391

74TH DISTRICT Adrian K. Arnold (D)
Route 3
Mount Sterling, Kentucky 40353

75TH DISTRICT William G. Kenton (D)
343 Woodland Avenue
Lexington, Kentucky 40508

76TH DISTRICT Steven L. Beshear (D)
317 Mariemont Drive
Lexington, Kentucky 40505

77TH DISTRICT David L. Van Horn (D)
1024 Juniper Drive
Lexington, Kentucky 40504

78TH DISTRICT Dr. Jack Trevey (R)
5241 Tates Creek Pike
Lexington, Kentucky 40503

79TH DISTRICT Henry Clay List (D)
500 Laketower Drive, No. 59
Lexington, Kentucky 40502

80TH DISTRICT William Harold DeMarcus (R)
Route 2
Stanford, Kentucky 40484

81ST DISTRICT Dwight Wells (D)
Route 7
Richmond, Kentucky 40475

82ND DISTRICT Elvin Elmer Patrick (R)
Ballard Ford Road
Williamsburg, Kentucky 40769

83RD DISTRICT Marshall Davenport (R)
Eagles Nest - Route 3
Somerset, Kentucky 42501

84TH DISTRICT Lloyd McKinney (R)
Route 1, Box 305
McKee, Kentucky 40447

85TH DISTRICT Albert Robinson (R)
Route 6, Box 60
London, Kentucky 40741

86TH DISTRICT Jimmy White (D)
324 N. Main Street
Barbourville, Kentucky 40906

87TH DISTRICT George E. Stewart (D)
528 Kentucky Avenue
Pineville, Kentucky 40977

88TH DISTRICT Roger Noe (D)
Box 1124
Harlan, Kentucky 40831

89TH DISTRICT John R. Turner (D)
929 1/2 Highland Avenue
Jackson, Kentucky 41339

90TH DISTRICT Clay Gay (D)
Box 990
Hyden, Kentucky 41749

91ST DISTRICT Hoover Dawahare (D)
P. O. Box 540
Whitesburg, Kentucky 41858

92ND DISTRICT Bill Weinberg (D)
P. O. Box 386
Hindman, Kentucky 41822

93RD DISTRICT N. Clayton Little (D)
Hartley, Kentucky 41532

94TH DISTRICT Herbert "Herbie" Deskins, Jr. (D)
P.O. Box 423
Pikeville, Kentucky 41501

95TH DISTRICT James "Jitter" Allen (D)
Route 2, Box 82
Martin, Kentucky 41649

96TH DISTRICT George M. Plummer (R)
Route 2, Indian Hills Subdivision
Vanceburg, Kentucky 41179

97TH DISTRICT Leo Marcum (R)
Inez, Kentucky 41224

98TH DISTRICT Ronald R. Cyrus (D)
Route 1, E. K. Road
Greenup, Kentucky 41144

99TH DISTRICT Ray O. Brown (D)
Box 345
Sandy Hook, Kentucky 41171

100TH DISTRICT Charles R. Holbrook, III
1734 Dysard Hill
Ashland, Kentucky 41101

The roll was called. All members present.

Representative Bobby Richardson moved that the Certificates of Election be confirmed. Agreed.

Said representatives produced their Certificates of Election, appeared before the Presiding Officer and were administered their oaths of office by The Honorable Pleas Jones, Justice of the Supreme Court of Kentucky.

Representative Donnermeyer moved the nomination of William G. Kenton as Speaker of the House of Representatives.

Representative Bobby Richardson moved that the nominations cease and that William G. Kenton be elected Speaker of the House of Representatives by acclamation. Agreed.

Representative William G. Kenton was elected Speaker of the House of Representatives by acclamation. A committee composed of Representatives McNutt, Isler, Hines, and Trevey escorted the Speaker to the Chair.

The oath of office was administered to Speaker Kenton by the Honorable Pleas Jones, Justice of the Supreme Court of Kentucky.

Speaker Kenton assumed the chair.

Representative Donnermeyer moved the nomination of Lloyd Clapp as Speaker Pro Tempore of the House of Representatives.

Representative Wells moved that the nominations cease and the Lloyd Clapp be elected Speaker Pro Tempore of the House of Representatives by acclamation. Agreed.

Representative Clapp was elected Speaker Pro Tempore of the House of Representatives by acclamation. The Speaker appointed a committee composed of Representatives Imes, Rattliff, and Craddock to escort the Speaker Pro Tempore to the Chair.

The oath of office was administered to Speaker Pro Tempore Clapp by The Honorable Pleas Jones, Justice of the Supreme Court of Kentucky.

Representative Bobby Richardson moved the nomination of the following House Constitutional Offices:

Chief Clerk	Sara Bell
Assistant Clerk	Evelyn Marston
Enrolling Clerk	Margaret Watts
Sergeant at Arms	Stuart Kelly

Chief Doorkeeper	Pete Slattery
Cloakroom Keeper	Harold Conn
Cloakroom Keeper	Bunny Davis
Janitor	T.W. Eastridge
Page	Jackie Sue Shroat
Page	Robin Swatzyna
Page	Nora "Mac" Hubbard
Page	Mary Jean Peter

Representative Wells moved that the nominations cease and that the House Constitutional Officers be elected by acclamation. Agreed.

The nominees for the House Constitutional Officers were elected by acclamation and the oath of office was administered by The Honorable Pleas Jones, Justice of the Supreme Court of Kentucky.

Representative Donnermeyer announced that the Democratic Party in caucus assembled had elected the following Majority Party leadership:

Floor Leader	Bobby H. Richardson
Whip	Dwight Wells
Caucus Chairman	William "Bill" Donnermeyer

Representative Rattliff announced that the Republic Party in caucus assembled had elected the following Minority Party House leadership:

Floor Leader	William Harold DeMarcus
Whip	Arthur L. Schmidt
Caucus Chairman	Herman W. Rattliff

Introduction of Bills and Resolutions

HR 2, by Representative B. Richardson: A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

HR 2, A RESOLUTION authorizing appointment of a committee of the House to wait upon the Senate and the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That a committee of this House be appointed by the Speaker to wait upon the Senate and notify that body that this House is now organized and ready to proceed to the transaction of business, and that said committee shall, in conjunction with a like committee from the Senate, wait upon the Governor and inform him that the General Assembly is now organized and ready to receive any communication he may desire to deliver.

Representative B. Richardson moved the adoption of **HR 2.**

HR 2 was adopted by voice vote.

In accordance with **HR 2,** the Speaker appointed the following Committee to wait upon the Senate and the Governor: Representatives Tobin, Benson and Bruce.

HR 1, by Representative B. Richardson: A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

HR 1, A RESOLUTION extending an invitation to the pastors of Frankfort churches to open sessions of the House with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant-at-Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House and open the sessions thereof with prayer.

Representative B. Richardson moved the adoption of **HR 1.**

HR 1 was adopted by voice.

HR 3, by Representative B. Richardson: A RESOLUTION adopting permanent rules of the House of Representatives.

HR 3, A RESOLUTION adopting permanent rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Rule 1. Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2. Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3. Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of 2/3 of the members elected.

ORDER OF BUSINESS

Rule 4. Order of Business. The order of business shall be as follows:

1. Invocation.
2. Roll Call.
3. Reading and approval of the Journal.
4. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
5. Report of Reference of Bills to Committees.
6. Report of Committees.
7. First Reading of Bills.
8. Second Reading of Bills.
9. Orders of the Day.
10. Motions, Petitions and Communications.
11. Announcements.
12. Adjournment.

No more than thirty minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filing blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.

7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's Desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. When the previous question has been ordered, a vote shall be taken immediately upon the pending measure and such pending amendments as are in order. The effect of the previous question shall be to put an end to all debate; to prevent the offering of additional amendments and to bring the House to an immediate vote upon the measure and amendments aforesaid. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered, and before the vote upon the main question, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any member, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall absent himself from a session of the House without leave from the House. Written request for leave of absence may be obtained from the Clerk of the House and shall be submitted to the Speaker. The request shall state thereon the member's excuse for obtaining the leave. No excuse for leave of absence shall be heard from the floor.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 23. Call to Order. If any member, in speech or otherwise, transgress the rules of order or decorum, he shall immediately be called to order by the chair and shall take his seat. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon him until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at his seat or visibly approaching it.

OFFICERS AND EMPLOYES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and his signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. He shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize him.

Any decision made by the Speaker shall be subject to appeal to the House. Every such appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Clerk. The Clerk shall have charge of all the clerical business of the House. She shall have charge of the Clerk's section of the House Chamber and shall see that no one is permitted therein except herself, those assisting her, and members.

The Clerk shall read to the House papers ordered to be read; call the roll and note and report the absentees when a call of the House is ordered; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; notify committees of their appointment and business referred to them; attest all writs, warrants and subpoenas issued by order of the House; keep a Calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; superintend the engrossing and enrolling of bills; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate, unless otherwise ordered.

Rule 30. Journal of Proceedings. The Clerk shall cause to be kept the Journal of the proceedings of the House. The Clerk shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Clerk and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and said Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Clerk or one of her assistants shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Clerk shall transmit the Journal for each day as soon as it has been approved by the House to the Legislative Research Commission, which shall deliver it to the public printer. The Commission staff shall proof read and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Clerk shall have custody of all records, papers and bills of the House and shall not allow them to be taken out of her possession without the leave of the House, unless to be delivered to the chairman of a committee to which they have been referred, or to the Legislative Research Commission, as specified in these Rules, and then she shall take a proper receipt therefor. She shall endorse on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." He shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Conduct of Employes. All the constitutional employes of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of said employes are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employes. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employes performing such services shall be under the supervision of the Committee on Committees.

No officer or employe of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chairman, the Majority Floor Leader of the House, the Majority Party Whip, and the Minority Floor Leader of the House. The Speaker shall be Chairman of the Committee and the majority of said Committee shall have full power to act on all matters referred to said Committee, either by these rules or by the action of the House. All bills and resolutions, either joint or concurrent, shall upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction.

The Committee on Committees shall have supervision and control over all employes of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employes and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House.

1. Agriculture and Natural Resources
2. Appropriations and Revenue
3. Banking and Insurance
4. Business Organizations and Professions
5. Cities
6. Counties and Special Districts
7. Education
8. Elections and Constitutional Amendments
9. Health and Welfare
10. Highways and Traffic Safety
11. Judiciary-Statutes
12. Judiciary-Courts
13. Labor and Industry
14. Public Utilities and Transportation
15. State Government

The standing committees of the House shall operate for the duration of a regular session and throughout any special session. On sine die adjournment of the General Assembly, the standing committees of the House shall be constituted subcommittees of the Legislative Research Commission pursuant to KRS Chapter 7.

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over that subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Natural Resources:** matters pertaining to crop, livestock, poultry and their marketing, disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; the state fair; county fairs.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; veterans bonus; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking, banks and trust companies; petty loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the blue sky law, mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the uniform commercial code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Business Organizations and Professions:** matters pertaining to professional licensing not assigned specifically to another committee; chambers of commerce; business development corporations; racing; prize fighting and wrestling; places of entertainment; laundry and dry cleaning; alcoholic beverage control; private corporations; cooperative corporations and marketing associations; religious, charitable and educational societies; non-profit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and salesmen; public accountants; watchmakers; detection of deception examiners; auctioneers; business schools; the business regulation aspects of the uniform commercial code; warehouses and warehousemen; partnerships; trade practices.

5. **Cities:** matters pertaining to the officers, organization, government and financing of city government; special purpose assessment and taxing districts within a city; incorporation and classification of cities; city revenue bond projects; the imposition of duties and costs on cities; city taxes and licenses; city indebtedness; compensation of city officers; metropolitan sewer districts; interlocal government cooperation; housing projects; urban renewal and redevelopment; city streets and sidewalks; sewers; annexation of territory; consolidation of local government services; forms of city government; city civil service; city finances and revenue; public works; police and fire departments and their retirement systems; municipal utilities and waterworks; parks and playgrounds; planning and zoning; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; police court and city attorney; city libraries.

6. **Counties and Special Districts:** matters pertaining to the officers, organization, government and financing of county governments; county imposed taxes and licenses; county and special district debt; the imposition of duties and costs on counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of county officers and employes; the offices of county judge, magistrates, county attorney, sheriff, constable, county police, jailer, coroner, surveyor, county clerk, county employes civil service and retirement; planning and zoning; interlocal cooperation and consolidation of services; county roads; public road districts; fire protection districts; drainage districts and local flood control and water usage; issuance of bonds for county and special district projects; metropolitan sewer and sanitation districts; local air pollution control districts; county and county law libraries; library districts.

7. **Education:** matters pertaining to public primary, secondary and higher education; the state board of education; the state department of education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts; teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employes; pupil transportation; school property and buildings; vocational education and rehabilitation; state universities and colleges; community colleges; municipal universities and colleges; regional education; education of the physically handicapped; educational television.

8. **Elections and Constitutional Amendments:** matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; legislative and congressional districts; the election of officers to state, local and school board positions; election commissioners, officer and precincts; qualifications, registration and purgation of voters; conduct of regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absent ballots.

9. **Health and Welfare:** matters pertaining to health and welfare in cities; fire prevention and protection; support of dependents; probation and parole; garbage and refuse disposal; public assistance; corrections; penitentiaries; child welfare; adoptions; mothers aid and assistance to children; children's homes, incompetents; poor persons and poor houses; confederate pensions; aid to needy blind; commitment and care of children; mental health; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; tuberculosis hospitals; hospitals, clinics and personal care homes; foods, drugs and poisons; hotel, restaurants and trailer park regulations; sanitation plants; sanitation districts; frozen food locker plants; alcoholism; water pollution; air pollution; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; registered nurses and practical nurses; pharmacists; embalmers and funeral directors; clinical psychologists; optometrists; opthalmic dispensers; physical therapists.

10. **Highways and Traffic Safety:** matters pertaining to the construction and maintenance of the state highway system; the bureau of highways; state aid for local roads and streets; the state police; the federal highway safety law; turnpike authority; state and federal highways; limited-access facilities; use of road bond monies; bill boards; junkyards; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

11. **Judiciary-Statutes:** matters pertaining to contracts; debtor-creditor relations; ownership and conveyance of property; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; summary proceedings; declaratory judgments; habeas corpus; witnesses; evidence; legal notices; crimes and punishments; construction of statutes; civil and criminal procedure; civil rights.

12. **Judiciary-Courts:** matters pertaining to the Supreme Court, District Courts, the Court of Appeals, Circuit Courts, County and Probate Courts, Quarterly Courts, Justices of the Peace Courts, and Police Courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirements; clerk of courts; juries, attorneys; commissioners and receivers; court reporters; and juvenile courts.

13. **Labor and Industry:** matters pertaining to commerce not specifically assigned to another committee; industrial financing and development; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; hotels; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employes; child labor; employment agencies; apprenticeship; unemployment compensation; workmen's compensation; consumer protection; industrial weights and measures.

14. **Public Utilities and Transportation:** matters pertaining to privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service, and operating regulations; telephone companies and cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; motor carriers.

15. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the general assembly, its committees, officers and service agencies; redistricting; the governor; the lieutenant governor; intergovernmental cooperation; relations with the federal government; administrative organization; administrative regulations; statutory administrative agencies; department of law; secretary of state; state personnel; state retirement systems; military affairs and civil defense; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; state and regional planning; the arts; the libraries; archives and records; public corporations; Commonwealth attorney; circuit clerk.

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the

Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than seven nor more than nine members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

Rule 42. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions under the Rules of this House.

Rule 43. Committee on Conference. When a House bill has been amended in the Senate and the House refuses to concur in said amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in said amendment and when neither will recede from such action, the Committee on Committees shall appoint a Committee on Conference to meet a like committee from the Senate. The Committee on Conference shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills, provided that the amendment as agreed upon shall pertain to the same subject matter as the original bill referred to the Committee on Conference. The conference report shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Rule 44. Meetings of Committees. No committee except the Committee on Committees, the Committee on Enrollment and a Committee on Conference between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Committee on Enrollment may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairmen, shall schedule a definite time and place for the regular weekly meetings of each committee, such schedule to be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. Nothing herein shall prevent the Chairman or a majority of any committee from calling a special meeting in addition to those regularly scheduled.

The Chairman shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employes required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 45. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. Upon the call of standing committees, the Clerk or the Chairman or ranking member of the committee may report the bill in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 46. Majority and Minority Reports. It shall require a majority of the committee membership to report a bill. Those members of the committee voting to report a bill must sign the committee report and the committee report shall only be signed in the committee room and while the committee is in session.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The Committee's report shall always be read before the minority report is read.

Rule 47. Failure to Report. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, any member may by filing with the Clerk a written request signed by twenty-five or more members, call the same up for consideration on the next succeeding legislative day after the filing of said request. If a majority of the members elected to the House concur therein, the bill shall be considered as though it had been regularly reported.

Rule 48. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting.

BILLS AND RESOLUTIONS

Rule 49. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be given to the Legislative Research Commission. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method of preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Rule 50. Introduction of Bills. Bills and resolutions may be introduced by filing them in the Clerk's office at any time that her office is open. Bills and resolutions introduced by filing them in the Clerk's office after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Clerk shall number bills in the order received, record their introduction, and transmit a copy immediately to the Committee on Committees for reference to committee. No bill or resolution having the force of law, shall be introduced during the last ten (10) legislative days of the session. The last two legislative days shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 51. Fiscal Note Required. A sponsor of a measure may at any time prior to the filing of a request for posting form require a fiscal analysis to be made by the Legislative Research Commission upon the same and a fiscal note attached thereto.

The chairman of the committee to which the measure has been referred may, at any time after a request for posting form is filed with the committee by the sponsor, determine that a fiscal analysis is required on any measure not carrying a fiscal note. The chairman upon such determination shall cause a fiscal analysis to be made by the Legislative Research Commission and a fiscal note attached prior to posting the measure for consideration.

After posting the measure a majority of the committee may determine that a fiscal analysis is required on any measure not already carrying a fiscal note and shall direct the same to be accomplished and fiscal note attached with all dispatch. A committee may consider any measure on the date for which it is posted even if it is determined by the committee on that date that a fiscal analysis is required, however, no final action shall be taken by the committee upon said measure until a fiscal note is presented to the committee and attached to the measure.

Any member proposing to amend from the floor a bill or resolution which carries a fiscal note or if the proposed amendment itself carries a fiscal implication, the member proposing the amendment shall cause a fiscal analysis of the amendment to be made and a fiscal note attached to the proposed amendment at the time of introduction. In the event an amendment is introduced without a fiscal note, any member may raise the question of fiscal implication to the amendment by a motion and by majority vote require a fiscal analysis to be made and a fiscal note attached to the amendment. If a fiscal analysis and note is required by the membership, action on the bill or resolution to be amended along with the proposed amendment shall be passed over in the Orders of the Day but retained in the Orders of the Day. A fiscal note required by the membership shall be filed and attached to the amendment prior to the convening of the session of the next legislative day. In the event it is impossible to complete the analysis and prepare a fiscal note before the convening of the session on the next legislative day, the Director of the Legislative Research Commission shall so advise the membership by letter and state a time in which the same can be completed and filed with the House.

If the Director of the Legislative Research Commission certifies that the fiscal note cannot be completed within the prescribed time, the amendment shall not be in order unless the members, by majority vote, determine either: (1) act on the amendment and the bill or resolution without the benefit of the fiscal note, or to (2) pass over the bill or resolution in the Orders of the Day and allow it to be retained in the Orders of the Day until the fiscal note is filed.

Rule 52. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it may be referred to a committee in the same manner as original bills are referred. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 53. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least two hundred copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 54. Readings of Bills. If a bill be reported with the expression of opinion that it should not pass a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Clerk upon the Calendar to be kept by him, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 55. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Clerk shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Clerk shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from such committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in said Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chairman.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of said bills to the Consent Orders for a day certain. On that day certain the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in said Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chairman. Consent Order bills may not be amended from the floor.

(7) The Clerk shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Clerk his "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) The vote on the Consent Orders shall be taken by use of the Electrical Voting System.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, such bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 56. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their second reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members.

Rule 57. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, the bill as amended shall immediately be placed upon its passage.

Rule 58. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Clerk, and shall bear the signature of the members offering the same. All amendments shall give the proper page and line of the printed bill. Three copies of each amendment shall be introduced and the Clerk shall forward one copy to the Legislative Research Commission. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution and unless it complies with Rule 51 relative to Fiscal Analysis; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appear to the House.

Rule 59. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Clerk and so certified by him endorsing thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by him, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

Rule 60. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the House Clerk to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The House Clerk shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

In the event a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Clerk of the House shall engross said amendments in the original copy of the House bill, attesting the same, before delivering the bill to the Enrolling Clerk of the

House. The Enrolling Clerk shall then cause the original bill as attested by the Chief Clerk and the safety copy of the bill as delivered from the Senate to conform to each other by typing in indelible typewriter ink or by writing in red ink the amendments engrossed in the original bill in the safety copy. In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy is available, the Enrolling Clerk may enroll such bill or resolution by typing the same on safety paper or by enrolling the same in long-hand.

The original bill or resolution and a printed copy upon safety paper in the exact form as finally passed shall be certified to by the Enrolling Clerk and delivered to the Committee on Enrollment. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 61. Signing of Bills. The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chairman of the Enrollment Committee of the Senate for presentation to the President of the Senate for his signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for his approval and take his receipt for same.

Rule 62. Resolutions. Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. However, simple resolutions expressing the will of the House and all resolutions recommending a study by an interim committee may be considered for adoption after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. All resolutions recommending a study by an interim committee shall include an approximate cost of the proposed study.

Rule 63. Legislative Citations. For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each such citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications," and without objection shall be adopted *en bloc* after reading individually by title. Citations shall be offered for consideration through presentation to the Clerk.

A resolution shall not be accepted for introduction if offered in lieu of a Legislative Citation.

VOTING

Rule 64. Roll Call. Any member, with a second, may demand a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, such vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House. No roll-call vote shall be started until two minutes after the warning chimes have been sounded.

Rule 65. Electrical Voting System. When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of such question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining his vote. No member shall be allowed to speak more than three minutes to explain his vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change his vote?" And after sufficient pause shall lock the roll call system and instruct the clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of his individual vote as registered opposite his name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 66. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to such penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in such manner as the House may determine. If a person not a member shall vote or attempt to vote for any member he shall be barred from the floor of the House for the remainder of the session and may be further punished in such manner as the House may deem proper, in addition to such punishment as may be prescribed by law.

Rule 67. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 68. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 69. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employes of the General Assembly. Bona fide newspaper correspondents designated in writing by the daily newspapers or press service they represent, shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a press section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the galleries not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 70. Lobbying in the House Chambers. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House galleries by any person.

Rule 71. Restrictions. No article, booklet, pamphlet or any other printed material shall be placed upon the desk of any member unless said article, booklet, pamphlet or other printed matter contains the signature of the author, or the party interested in the distribution thereof is clearly identified. All such articles, booklets, pamphlets or any other printed material shall be delivered to the message room and shall upon direction of the clerk after inspection, be placed in the members' bin. The Sergeant-at-Arms shall be charged with the duty of seeing that no individual other than employes of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Any material found so distributed by unauthorized individuals shall be collected from the members' desk and treated as litter.

RULES

Rules 72. Mason's Manual. In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 73. Change of Rules. The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

HR 3 was adopted by voice vote.

HB 1, introduced for the Interim Joint Committee on Business Organizations and Professions by Representatives Mann and Priddy: AN ACT relating to alcoholic beverage control.

HB 2, introduced for the Interim Joint Committee on Business Organizations and Professions by Representatives Mann and Bennett: AN ACT relating to Mechanics' and Materialmen's Liens.

HB 3, introduced for the Interim Joint Committee on Business Organizations and Professions by Representatives Mann and Bennett: AN ACT relating to warranties.

HB 4, introduced for the Inteirm Committee on Banking and Insurance by Representatives P. Richardson, Adams, Carpenter, and Foster: AN ACT relating to blanket bonds of banks an credit unions.

HB 5, introduced for the Interim Committee on Banking and Insurance by Representatives Carpenter and Deskins: AN ACT relating to insurance taxes and license fees.

HB 6, introduced for the Interim Committee on Banking and Insurance by Representatives Foster and Tobin: AN ACT relating to the registration of motor vehicles.

HB 7, introduced for the Interim Joint Committee on Labor and Industry by Representatives Gray and Cyrus: AN ACT relating to public employes' collective bargaining.

HB 8, introduced for the Interim Committee on Labor and Industry by Representatives Bennett and Dietz: AN ACT relating to employment.

HB 9, introduced for the Interim Committee on Labor and Industry by Representatives Gray and Brown: AN ACT relating to labor relations.

HB 10, introduced for the Interim Committee on Labor and Industry by Representatives Romines and Cyrus: AN ACT relating to organization dues of public employes.

HB 11, introduced for the Interim Committee on Labor and Industry by Representatives Gray and Cyrus: AN ACT relating to workmen's compensation.

HB 12, introduced for the Interim Joint Committee on Agriculture and Natural Resources by Representatives Blandford and Burnett: AN ACT relating to the sales and use tax.

HB 13, introduced for the Interim Joint Committee on Health and Welfare by Representatives Bendl and Jones: AN ACT relating to rights of children.

HB 14, introduced for the Interim Joint Committee on Health and Welfare by Representatives Carpenter and Priddy: AN ACT relating to sales tax exemption for aged, blind and disabled persons.

HB 15, introduced for the Interim Joint Committee on Health and Welfare by Representatives Gray and Kleier: AN ACT relating to short term crisis assistance.

HB 16, introduced for the Interim Joint Committee on Health and Welfare by Representatives Carpenter and Priddy: AN ACT relating to persons who are incompetent.

HB 17, introduced for the Interim Joint Committee on Health and Welfare by Representatives Carpenter and Kleier: AN ACT relating to medical assistance.

HB 18, introduced for the Interim Joint Committee on Health and Welfare by Representatives Priddy and Kleier: AN ACT relating to mandatory physical examinations for foster children and children in temporary placement.

HB 19, introduced for the Interim Joint Committee on Health and Welfare by Representatives Jones and Sale: AN ACT relating to persons who are graduates of foreign medical or osteopathic schools or colleges.

HB 20, introduced for the Interim Joint Committee on Health and Welfare by Representatives Bendl and Carpenter: AN ACT relating to health care costs.

HB 21, introduced for the Interim Joint Committee on Health and Welfare by Representatives Overstreet and Jones: AN ACT relating to community action corporations.

HB 22, introduced for the Interim Joint Committee on Appropriations and Revenue by Representatives Imes, Morris, Robinson, Adams, Craddock, Nett and O'Brien: AN ACT relating to motor vehicle usage tax.

HB 23, introduced for the Interim Joint Committee on Highways and Traffic Safety by Representative Romines: AN ACT relating to motor vehicles.

HB 24, introduced for the Interim Joint Committee on Highways and Traffic Safety by Representative Hancock: AN ACT relating to the use of streets and highways.

HB 25, introduced for the Interim Joint Committee on Highways and Traffic Safety by Representatives Thomas and Hancock: AN ACT relating to motor vehicles.

HB 26, introduced for the Interim Joint Committee on Highways and Traffic Safety by Representative Hancock: AN ACT relating to traffic offenses.

HB 27, introduced for the Interim Joint Committee on Public Utilities and Transportation by Representatives Dunn and Dietz: AN ACT relating to motor fuel tax.

HB 28, introduced for the Interim Joint Committee on Public Utilities and Transportation by Representatives Yates, McBee, White, Wright and LeMaster: AN ACT relating to sales and use taxes.

HB 29, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives Fitzgerald and Arnold: AN ACT relating to counties.

HB 30, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives Arnold and Foster: AN ACT relating to compensation of county officials.

HB 31, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives Lindsay and Fitzgerald: AN ACT relating to compensation of county officials.

HB 32, introduced for the Interim Joint Committee on Counties an Special Districts by Representatives LeMaster and Bennett: AN ACT relating to fiscal courts.

HB 33, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives LeMaster and Bennett: AN ACT relating to the administration of county government.

HB 34, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives LeMaster and Bennett: AN ACT relating to the powers and functions of county government.

HB 35, introduced for the Interim Joint Committee on Business Organizations and Professions by Representatives Mann and McBee: AN ACT relating to dental hygienists.

HB 36, introduced for the Interim Joint Committee on Banking and Insurance by Representatives Kidd and Blythe: AN ACT relating to credit unions.

HB 37, introduced for the Interim Joint Committee on Banking and Insurance by Representatives Holloway and P. Richardson: AN ACT relating to credit and debit card crimes.

HB 38, introduced for the Interim Joint Committee on Labor and Industry by Representatives Brown and Bennett: AN ACT relating to wages and hours.

HB 39, introduced for the Interim Joint Committee on Labor and Industry by Representatives Gray and Cyrus: AN ACT relating to wages and hours.

HB 40, introduced for the Interim Joint Committee on Labor and Industry by Representatives Romines and Bennett: AN ACT relating to wages and hours.

HB 41, introduced for the Interim Joint Committee on Labor and Industry by Representatives Bennett, Dietz, and Romines: AN ACT relating to workmen's compensation.

HB 42, introduced for the Interim Joint Committee on Cities by Representatives Blythe and Hancock: AN ACT relating to a fire protection classification review and appeal board.

HB 43, introduced for the Interim Joint Committee on Cities by Representatives Blythe and Hancock: AN ACT relating to the reporting of fire losses.

HB 44, introduced for the Interim Joint Committee on Cities by Representatives Hancock and Siemens: AN ACT creating a department of buildings, housing and construction.

HB 45, introduced for the Interim Joint Committee on Cities by Representatives DeFalaise and Bendl: AN ACT relating to rental agreements.

HB 46, introduced for the Interim Joint Committee on Judiciary-Courts by Representatives Brown and DeMarcus: AN ACT relating to the handling of monies by the Court of Justice and related public officers and employes.

HB 47, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives W. Allen and LeMaster: AN ACT relating to the powers and functions of county government.

HB 48, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives Foster and Lindsay: AN ACT relating to justices of the peace.

HB 49, introduced for the Interim Joint Committee on Judiciary-Courts by Representatives Fitzgerald and Jones: AN ACT relating to circuit clerks.

HB 50, introduced for the Interim Joint Committee on Judiciary-Courts by Representatives Fitzgerald and DeFalaise: AN ACT relating to fees and costs.

HB 51, introduced for the Interim Joint Committee on Counties and Special Districts by Representatives Fitzgerald and Arnold: AN ACT relating to special districts.

HB 52, by Representative Mann: AN ACT relating to the certification of soil classifiers.

HB 53, by Representatives Mann and Bennett: AN ACT relating to licensing of speech pathologists and audiologists.

HB 54, by Representative Jones: AN ACT relating to sexual exploitation of children.

HB 55, by Representatives Schmidt and Morris: AN ACT relating to legislative jurisdiction over federal lands within the Commonwealth of Kentucky.

HB 56, by Representative Brown: AN ACT relating to absentee ballots.

HB 57, by Representative Carpenter: AN ACT relating to historic motor vehicles.

HB 58, by Representative Adams: AN ACT relating to the emergency powers of the county judge/executive.

HB 59, by Representative Fitzgerald: AN ACT relating to traffic regulations.

HB 60, by Representative Stone: AN ACT relating to volunteer fireman.

HB 61, by Representative Stone: AN ACT relating to inheritance taxation.

HB 62, by Representative Isler: AN ACT relating to the inspection of mobile homes and recreational vehicles.

HB 63, by Representative Isler: AN ACT relating to motor vehicles.

HB 64, by Representative Robinson: AN ACT relating to the coal severance economic aid fund.

HB 65, by Representative Romines: AN ACT relating to the Public Service Commission.

HB 66, by Representative Romines: AN ACT relating to public utilities.

HB 67, by Representative Romines: AN ACT relating to motor vehicle operators' licenses and making an appropriation therefor.

HB 68, by Representative LeMaster: AN ACT relating to citation officers for urban county governments.

HB 69, introduced for Interim Joint Committee on Judiciary-Courts by Representatives DeMarcus and Fitzgerald: AN ACT relating to uniform citations.

HB 70, by Representative Cyrus: AN ACT relating to amygdalin (laetrile).

HB 71, by Representative W. Allen: AN ACT relating to instruction in economics in the public schools.

HB 72, by Representative Deskins: AN ACT relating to the powers of the fiscal court.

HB 73, by Representative Lindsay: AN ACT proposing an amendment to Sections 99 and 106, and the repeal of Section 105 of the Constitution of Kentucky, relating to sheriffs and jailers.

HB 74, introduced for the Interim Joint Committee on Cities by Representatives Siemens, Holbrook and Benson: AN ACT relating to pensions.

HB 75, by Representative Kidd: AN ACT relating to elections.

HB 76, by Representative Bendl: AN ACT relating to parenthood and human growth and development education and making an appropriation therefor.

HB 77, by Representative Bendl: AN ACT relating to children's health needs.

HB 78, by Representative Bendl: AN ACT relating to the immunization of children and making an appropriation therefor.

HB 79, by Representative Bendl: AN ACT relating to day care centers.

HB 80, by Representative Bendl: AN ACT relating to children.

HB 81, by Representative Priddy: AN ACT relating to police in cities of the fourth, fifth and sixth classes.

HB 82, by Representative DeFalaise: AN ACT relating to sexual exploitation of children.

HB 83, by Representative Morris, Adams, Bruce, and Guy: AN ACT relating to sales and use taxes.

HB 84, by Representative DeMarcus: AN ACT relating to education.

HB 85, by Representative Bendl: AN ACT relating to school health services.

HB 86, by Representative LeMaster: AN ACT relating to the licensure of athletic therapists.

HB 87, introduced for the Interim Joint Committee on Cities by Representatives Benson, DeFalaise and Nett: AN ACT relating to the Kentucky Municipal Code.

HB 88, by Representative B. Richardson: AN ACT relating to water resources.

HB 89, by Representative Donnermeyer: AN ACT relating to the department for natural resources.

HB 90, by Representative Wells: AN ACT relating to sale of prison made goods.

HB 91, by Representative Donnermeyer: AN ACT relating to nonelective peace officers.

HB 92, by Representative Burch: AN ACT relating to public schools.

HB 93, by Representative Burch: AN ACT relating to the motor fuel tax.

HB 94, by Representative Burch: AN ACT relating to elections in cities of the first class.

HB 95, by Representative Burch: AN ACT relating to sexual exploitation of children.

HB 96, by Representative Burch: AN ACT proposing an amendment to the Constitution of Kentucky relating to justices and judges.

HB 97, by Representative Burch: AN ACT proposing an amendment to Section 117 of the Constitution of Kentucky relating to Justices and Judges.

HB 98, by Representative Donnermeyer: AN ACT relating to children.

HB 99, by Representative Wells: AN ACT relating to mental health.

HB 100, by Representative B. Richardson: AN ACT relating to licensing and public employment qualifications.

HB 101, by Representative Clapp: AN ACT relating to emergency medical technicians.

HB 102, by Representative Clapp: AN ACT relating to physicians' assistants.

HB 103, by Representative B. Richardson: AN ACT relating to county clerk's bonds.

HB 104, by Representative B. Richardson: AN ACT relating to private security services.

HB 105, by Representative Adams: AN ACT relating to the payment of taxes.

HB 106, by Representative Adams: AN ACT relating to disaster and emergency response planning.

HB 107, by Representative Adams: AN ACT relating to the repurchase of stock and equipment.

HB 108, by Representative Adams: AN ACT relating to a motor vehicle operator's license.

HB 109, introduced for the Interim Committee on Appropriations and Revenue by Representative Adams: AN ACT relating to the establishment of a Kentucky Coal and Grain Transportation Authority, providing for the issuance of bonds thereby.

HB 110, introduced for the Interim Committee on Appropriations and Revenue by Representatives Clarke and Schmidt: AN ACT relating to contracting for personal services.

HB 111, by Representative Arnold: AN ACT relating to landlord and tenant relationships.

HB 112, by Representatives Deskins and Fitzgerald: AN ACT relating to income taxes.

HB 113, by Representatives Little and Deskins: AN ACT relating to teacher retirement.

HB 114, by Representative Little: AN ACT relating to surface mining.

HB 115, by Representative Little: AN ACT relating to teacher retirement.

HB 116, by Representative Little: AN ACT relating to regional day school education for the deaf and hearing impaired.

HB 117, by Representatives Dawahare and Patrick: AN ACT relating to higher education.

HB 118, by Representatives Dawahare and Patrick: AN ACT relating to the medical, dental and law schools.

HB 119, by Representatives Hancock and P. Richardson: AN ACT relating to crime victims.

HB 120, by Representatives Yates and Priddy: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HR 4, by Representatives Worthington, B. Richardson and Kenton: A RESOLUTION honoring former Representative Dr. Mitchel B. Denham.

HJR 5, by Representative Hancock: A JOINT RESOLUTION designating Agnes O'Rear as a Poet Laureate.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Committees. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended for the following purpose: Report of the Committee on Committees, Report of the Committee to Wait Upon the Governor, and suspension of the three-day posting rule in regard to pre-filed bills. Agreed.

Representative Bruce reported the Governor will address at Joint Session at 7:30 p.m. on this date.

The Clerk read the following committee appointments by the Committee on Committees:

AGRICULTURE AND NATURAL RESOURCES

Donald J. Blandford, Chairman (D)
Clay Crupper, Vice Chairman (D)
John Hurst, Vice Chairman (D)
Herman Ratliff, Minority Chairman (R)

James (Jitter) Allen (D)
Willard (Woody) Allen (R)
Adrian Arnold (D)
David Boswell (D)
Ward (Butch) Burnette (D)
Joe Head (D)
Henry Clay List (D)
Leo Marcum (R)
Woody May (D)
Virgil L. Pearman (D)
Randolph Smith (R)
George E. Stewart (D)
Phillip Stone (D)

APPROPRIATIONS AND REVENUE

Joe Clarke, Chairman (D)
Woody May, Vice Chairman (D)
Carl A. Nett, Vice Chairman (D)
Albert Robinson, Minority Chairman (R)

Buddy Adams (D)
James (Jitter) Allen (D)
Adrian Arnold (D)
Lloyd Clapp (D)
Allene A. Craddock (D)
Harold DeMarcus (R)
William Donnermeyer (D)
Edward Holloway (R)
Robert A. (Bob) Jones (D)
Ramsey H. Morris (D)
Mark D. O'Brien (D)
Arthur Schmidt (R)
Dwight Wells (D)

BANKING AND INSURANCE

James E. Bruce, Chairman (D)
Elmer Dietz, Vice Chairman (D)
Lewis Foster, Vice Chairman (D)
Edward L. Holloway, Minority Chairman (R)

Bruce Blythe (R)
Ward (Butch) Burnette (D)
John V. Carpenter (D)
Hoover Dawahare (D)
Herbert (Herbie) Deskins (D)
Charles Holbrook (R)
John J. Isler (D)
Mae Street Kidd (D)
Leo Marcum (R)
Charles O. Petty (D)
Paul W. Richardson (D)
Mary Ann Tobin (D)
W. Stephen Wilborn (D)

BUSINESS ORGANIZATIONS AND PROFESSIONS

Terry L. Mann, Chairman (D)
Al Bennett, Vice Chairman (D)
Sam B. Thomas, Vice Chairman (D)
Arthur Schmidt, Minority Chairman (R)

David C. Boswell (D)
Thomas J. Burch (D)
Marshall Davenport (R)
W. Harold DeMarcus (R)
James R. (Jim) Dunn (D)
John J. Isler (D)
Louis Johnson (D)
William K. (Bill) McBee (D)
Carl A. Nett (D)
Charles O. Petty (D)
Frank J. Smith (D)
Dexter Wright (R)
James Bernard Yates (D)

CITIES

Bob Benson, Chairman (D)
Gerta Bendl, Vice Chairman (D)
Ronald R. Cyrus, Vice Chairman (D)
Bruce Blythe, Minority Chairman (R)

Steven L. Beshear (D)
Louis DeFalaise (R)
Clay Gay (R)
C. M. (Hank) Hancock (D)
Charles Holbrook (R)
Mae Street Kidd (D)
M. J. (Jerry) Kleier (D)
Henry Clay List (D)
Lawrence Ray Maynard (D)
Alice H. (Dolly) McNutt (D)
Charles O. Petty (D)
George R. Siemens (D)
Aubrey Williams (D)

COUNTIES AND SPECIAL DISTRICTS

Mark Fitzgerald, Chairman (D)
Adrian Arnold, Vice Chairman (D)
Archie N. Romines, Vice Chairman (D)
Willard (Woody) Allen, Minority Chairman (R)

Al Bennett (D)
Allene A. Craddock (D)
Clay Crupper (D)
Marshall Davenport (R)
Hoover Dawahare (D)
Lewis Foster (D)
Harold Haering (R)
Joe Head (D)
Gross C. Lindsay (D)
Virgil L. Pearman (D)
George Plummer (R)
Phillip Stone (D)
Bill Weinberg (D)

EDUCATION

Jody Richards, Chairman (D)
N. Clayton Little, Vice Chairman (D)
Forest Aggie Sale, Vice Chairman (D)
Lloyd McKinney, Minority Chairman (R)

Willard (Woody) Allen (R)
J. W. Boatwright (D)
Buel E. Guy (D)
Carl R. Hines (D)
Ronny Layman (R)
Terry L. Mann (D)
Carl A. Nett (D)
Claudia Riner (D)
Randolph Smith (R)
Bill Weinberg (D)
Jimmy White (D)
W. Stephen Wilborn (D)
Pete Worthington (D)

ELECTIONS AND CONSTITUTIONAL AMENDMENTS

James R. (Jim) Dunn, Chairman (D)
Mae Street Kidd, Vice Chairman (D)
Paul Richardson, Vice Chairman (D)
Dexter Wright, Minority Chairman (R)

Ray O. Brown (D)
Thomas J. Burch (D)
Marshall Davenport (R)
Clay Gay (R)
Buel E. Guy (D)
Carl R. Hines (D)
Louis Johnson (D)
Lawrence Ray Maynard (D)
Roger Noe (D)
Elmer Patrick (R)
Jody Richards (D)
Frank J. Smith (D)
Pete Worthington (D)

HEALTH AND WELFARE

M. J. (Jerry) Kleier, Chairman (D)
Buddy H. Adams, Vice Chairman (D)
Dottie Priddy, Vice Chairman (D)
Raymond Overstreet, Minority Chairman (R)

Gerta Bendl (D)
William T. Brinkley (D)
Thomas J. Burch (D)
Ward (Butch) Burnette (D)
John V. Carpenter (D)
Harold Haering (R)
Robert A. (Bob) Jones (D)
Ronny Layman(R)
Alice H. (Dolly) McNutt (D)
Paul W. Richardson (D)
Claudia Riner (D)
Forest Aggie Sale (D)
Jack Trevey (R)

HIGHWAYS AND TRAFFIC SAFETY

C. M. (Hank) Hancock, Chairman (D)
Hoover Dawahare, Vice Chairman (D)
H. Ramsey Morris, Vice Chairman (D)
Ronny Layman, Minority Chairman (R)

Clay Crupper (D)
Harold Haering (R)
Joe Head (D)
N. Clayton Little (D)
Elmer Patrick (R)
Virgil L. Pearman (D)
Herman Rattliff (R)
Claudia Riner (D)
Archie N. Romines (D)
Forest Aggie Sale (D)
Sam B. Thomas (D)
John Raymond Turner (D)
David L. Van Horn (D)

JUDICIARY— COURTS

Gross C. Lindsay, Chairman (D)
Steven L. Beshear, Vic Chairman (D)
Ray O. Brown, Vic Chairman (D)
Louis DeFalaise, Minority Chairman (R)

Allene A. Craddock (D)
W. Harold DeMarcus (R)
Clay Gay (R)
Louis Johnson (D)
N. Clayton Little (D)
Lloyd McKinney (R)
Alice H. (Dolly) McNutt (D)
Roger Noe (D)
George R. Siemens (D)
Phillip Stone (D)
Jimmy White (D)
Aubrey Williams (D)
David L. Van Horn (D)

JUDICIARY— STATUTES

Jim LeMaster, Chairman (D)
George R. Siemens, Vice Chairman (D)
Mary Ann Tobin, Vice Chairman (D)
Charles R. Holbrook, Minority Chairman (R)

Berta Bendl (D)
Al Bennett (D)
Bob Benson (D)
Steven L. Beshear (D)
J. W. Boatwright (D)
Louis DeFalaise (R)
Mark Fitzgerald (D)
Louis Guenthner (R)
Buel E. Guy (D)
Carl Hines (D)
Raymond Overstreet (R)
W. Stephen Wilborn (D)
Aubrey Williams (D)

LABOR AND INDUSTRY

James Bernard Yates, Chairman (D)
J. R. Gray, Vice Chairman (D)
Robert A. (Bob) Jones, Vice Chairman (D)
Louis Guenthner, Minority Chairman (R)

Ray O. Brown (D)
John V. Carpenter (D)
Ronald R. Cyrus (D)
Herbert (Herbie) Deskins (D)
Elmer Dietz (D)
Edward Holloway (R)
John Hurst (D)
Kenneth C. Imes (D)
George Plummer (R)
Dottie Priddy (D)
Frank J. Smith (D)
Jack Trevey (R)
David L. Van Horn (D)

PUBLIC UTILITIES AND TRANSPORTATION

William K. (Bill) McBee, Chairman (D)
George E. Stewart, Vice Chairman (D)
Jimmy White, Vice Chairman (D)
Randolph Smith, Minority Chairman (R)

James (Jitter) Allen (D)
Donald J. Blandford (D)
David Boswell (D)
Herbert (Herbie) Deskins (D)
Elmer Dietz (D)
Jim LeMaster (D)
Henry Clay List (D)
Raymond Overstreet (R)
Albert Robinson (R)
Sam B. Thomas (D)
John Raymond Turner (D)
Pete Worthington (D)
Dexter Wright (R)

STATE GOVERNMENT

Kenneth C. Imes, Chairman (D)
J. W. Boatwright, Vice Chairman (D)
Mark D. O'Brien, Vice Chairman (D)
Bruce Blythe, Minority Chairman (R)

J. R. Gray (D)
William T. Brinkley (D)
James E. Bruce (D)
Lloyd Clapp (D)
Joe Clarke (D)
William Donnermeyer (D)
John J. Isler (D)
Lloyd McKinney (R)
Roger Noe (D)
Albert Robinson (R)
Arthur Schmidt (R)
Bill Weinberg (D)
Dwight Wells (D)

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 12.**

Appropriations and Revenue: **HB 22.**

Banking and Insurance: **HB 4, HB 5, HB 6, HB 36, HB 37.**

Business Organizations and Professions: **HB 1, HB 2, HB 3, HB 35.**

Cities: **HB 42, HB 43, HB 44, HB 45.**

Counties and Special Districts: **HB 29, HB 30, HB 31, HB 32, HB 33, HB 34, HB 47, HB 48, HB 49, HB 51.**

Health and Welfare: **HB 13, HB 14, HB 15, HB 16,HB 17, HB 18, HB 19, HB 20, HB 21.**

Highways and Traffic Safety: **HB 23, HB 24, HB 25, HB 26.**

Judiciary-Courts: **HB 46, HB 50.**

Labor and Industry: **HB 7, HB 8, HB 9, HB 10, HB 11, HB 38, HB 39, HB 40, HB 41.**

Public Utilities and Transportation: **HB 27, HB 28.**

Announcements

Representative B. Richardson announced the following Committee meetings on January 4, 1978:

Committee on Education, Room 307, 8:00 a.m.

Committee on Labor and Industry, Room A, 8:00 a.m.

Committee on Judiciary Statutes, Room 305, 10:00 a.m.

Committee on Highways and Traffic Safety, Room C, 10:00 a.m.

Committee on Health and Welfare, Room A, 12 noon.

Motions, Petitions and Communications

Representative Benson announced a reception at the Lieutenant Governor's Mansion during recess.

Representative Worthington moved the adoption of the following **HR 4:**

HR 4, A RESOLUTION honoring former Representative Dr. Mitchel B. Denham.

WHEREAS, the Honorable Dr. Mitchel B. Denham has served distinctively and well as a member of the Kentucky House of Representatives for six terms, beginning in 1960; and

WHEREAS, Dr. Denham has earned the admiration and respect of those many colleagues in the House of Representatives having been fortunate enough to have known and worked with him down through the years; and

WHEREAS, having been ever mindful of the needs and desires of his constituents, his party and the Commonwealth of Kentucky, Dr. Mitchel Denham did raise himself to a position of leadership in the General Assembly, and to membership on the Legislative Research Commission; and

WHEREAS, the House of Representatives owes to Dr. Mitchel Denham its everlasting gratitude, fond best wishes and kind remembrances;

NOW, THEREFORE,
Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Dr. Mitchel B. Denham be and he is hereby accorded the esteem, honor, gratitude and deepest appreciation of the Kentucky House of Representatives for his many years of service in the General Assembly.

Section 2. That when the House of Representatives adjourns on this day, Tuesday, January 3, 1978, it does so in honor and tribute to Dr. Mitchel B. Denham.

Section 3. That the Clerk be directed to transmit a copy of this resolution to Dr. Mitchel B. Denham.

Representative Worthington moved that a call of the roll be taken to show co-sponsors of **HR 4.** Agreed.

The following members voted to co-sponsor **HR 4:**

On the call the vote was yeas 91-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May Maynard, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HR 4 was adopted by voice vote.

Recess

Representative B. Richardson moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (Con't.)

The Committee appointed to wait upon the Governor reported that the Governor was ready to address a Joint Session of the General Assembly.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the House and Senate resolve into Joint Session for the purpose of receiving the State of the Commonwealth Address of The Honorable Julian M. Carroll, Governor of Kentucky. Agreed.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by the Reverend Bob Brown, Trinity Baptist Church, Lexington.

The Committee of the House appointed to join with a like committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session appeared with the Governor.

Lieutenant Governor Thelma L. Stovall introduced The Honorable Julian M. Carroll, Governor of the Commonweatlh of Kentucky.

Governor Carroll addressed the Joint Session of the General Assembly.
Lieutenant Governor Stovall
Mr. Speaker
Members of the General Assembly
My Fellow Kentuckians

You have asked me to report to you tonight on the state of the Commonwealth, and I accept with pride in our accomplishments, with humility before the challenges of the second biennium.

Almost two centuries ago, on a bleak November evening in 1793, Isaac Shelby, the beloved first Governor of this Commonwealth, stood before a similar assembled body to deliver *his* view of the condition of this then-fledgling state.

He opened his speech with the following remarks, and I quote: "The violent and general attack made by the Indians last Spring on the frontiers of this state obliged me to order a considerable number of guards and scouts into service."

We don't—obviously—have the same problems in this new year of 1978. But there is one major similarity between the administration of Isaac Shelby and that of Julian Carroll.

His mandate was to build a bridge from an uncertain past to a secure future, and that is mine also.

But our future—the future of Kentucky—is now. It is upon us today, and today we must seize it.

In the three years that I have been privileged to hold this office, Kentucky has experienced unprecedented growth and development. We have emerged from the dark night of recession into the radiant sunshine of prosperity and promise.

The statisticians tell us that Kentucky is a small state in terms of population. They say we are a poor state. But the statisticians have never measured the quality and fortitude and resourcefulness of our people. Thus they have some difficulty explaining the latest figures on our economy.

Our present rate of increase of personal income ranks fourth in the United States.

Our present unemployment rate is 4.1 percent, as compared to the national average of 6.3 percent. And this rate comes at a time of significant population increase in our state, indicating an exceptionally strong period of job creation.

Our economy is balanced and well-diversified, and our surge forward reflects this stability.

Nationally, farm income has *decreased* by 31.8 percent. In Kentucky, farm income is *up* 57.9 percent, making our agricultural production a two billion dollar a year business.

Nationally, manufacturing income has increased by only 29.5 percent. In Kentucky, the increase is 38.7 percent.

Our construction trade income has increased by 32.1 percent.

Personal income attributed to mining increased by 124.8 percent.

Incomes attributed to the service sector have increased by 47.1 percent, while state and local government and non-farm incomes have increased by 46 and 48.7 percent respectively.

From January, 1975 through September, 1977, we developed over 112,000 new jobs in the mining, construction, manufacturing and service industries alone.

Our efforts at increased tourism—to preserve and share the God-given beauty of this sprawling land—now bring in one billion dollars a year.

The list could go on. But these strong economic indicators did not just happen. We—the General Assembly, the people of Kentucky, and this Administration—made them happen.

You can take considerable pride in the fact that your legislative actions in the 1976 Session provided the seeds which have already produced surprising results.

We have managed our diversified economy well, and we expand its horizons daily.

We have sought and we have achieved a favorable business and labor climate within the Commonwealth, essentially ridding ourselves of a national image to the contrary.

We have established a broad range of urban redevelopment programs which will increase our growth opportunities even further.

We have concentrated on the revitalization of our urban centers because we believe them to be vital to the growth of our Commonwealth. Downtown development in Louisville is extremely vital to all of Kentucky as is the development of Lexington, our Northern Kentucky urban area and our other major urban areas.

We have capitalized on the resurgence of coal utilization, and we have become a leader in energy research and development.

We have modernized our government machinery until we are second to no state in this nation.

We have exercised prudent fiscal management, demanding that we do not spend what we do not have, that we do not borrow today what we cannot repay tommorow, that we do not accept from the Federal Government funds for programs that we are not willing to sustain when the time comes.

We have maintained a well-balanced tax system that provides adequately for our needs and yet is one of the lowest in the nation.

We have no debt issues in trouble and our recent bond issues show Kentucky to have a strong financial rating.

Our unemployment fund is solvent, and we will not allow it to become otherwise.

For these reasons and many others, we must now look to our future. We must provide for tomorrow today. But we cannot insure continued prosperity if we do not practice constant perseverence. We cannot forge a *secure* future unless we know where we have been and where we are.

In my inaugural address on December 9, 1975, I told you that it was time to roll up our sleeves and get down to some old-fashioned work, and with your help we have done that.

I told you that we must pursue a new standard of excellence in state government and seek to restore confidence, morality and integrity to that government, and with your help we have done that.

In my last state of the Commonwealth message, I told you that we would apply "common sense for the common good," and with your help we have done that.

Let me now share with you what our joint labors have accomplished, and where we must go.

We all know that a society riddled by crime is a society that cannot long survive. Of what solace is prosperity if we are fearful for our lives and property? We also know that the solution to crime is much more complex than merely exercising diligent law enforcement.

Thus, as you know, our criminal justice system has been completely reorganized, bringing together enforcement, training, corrections and the Public Defender's Office under one roof, with strong, centralized direction.

Now, for the first time in the history of the Commonwealth, we have a unified Department of Justice, one that has earned us the title "A Model for the Nation."

It is working, and working well. One of the reasons is our positive approach. We have gone on the offenseive, rather than the defensive, and this is perhaps best illustrated by our crime prevention program.

In those communities where the program has been adopted, the burglary rate has dropped dramatically. For example, the city of Campbellsville has received 97 percent participation in "Operation Identification." In the two years since they reached that goal, there have been only three burglaries. In the year preceding that, there were 75.

In Owensboro, Covington and some sections of Louisville where participation has ranged from 25 percent to over 50 percent, burglary rates have dropped by approximately 30 percent.

Our incentive pay to local law enforcement officers for extensive, professional training has had tremendous success, providing us with better trained officers who can now handle the stress and complexities of their dangerous assignments.

Our removal of bail bonding from the private sector has had a significant impact on the number of crimes which have been committed and on the lives of those charged with crimes.

Administrations have struggled for years with the sad and sorry state of our corrections system. With the help of a nationally known professional firm we are now facing up to those problems. Our institutions have been outdated and our personnel have been poorly trained, but we are changing that. We have brought accountability and openness and understanding to the system.

We have instituted mandatory training of correction officers; we have opened the system to the media, to citizens groups and to the families of those incarcerated. We have established career development programs so that prisoners can *earn* their way back into society. We have established gradual release centers to smooth out their re-entry, to help them better adjust to life outside.

We have established a classification system so that no longer are 18 year-old boys thrown in with hardened criminals. Now, when a prisoner is sent to Blackburn, or Eddyville, or LaGrange, there is a reason, based on a set of weighed criteria.

We have established the first minimum security facility for women, and this is both humane and productive.

We are revamping the parole system to make it function more effectively, with set guidelines and procedures, so that the prisoner who is truly ready to return to society may do so, and so that society may be protected from the indiscriminate release of those not ready.

We are not doing these things to coddle criminals, but to protect the fabric of our society, to decrease the chance of further abuse.

And while I am on this subject, let me reiterate something I have said before. We are going to have law and order in this Commonwealth. And while we observe the right of every Kentuckian to protest peacefully, we will observe no man's right to harm life or property. The way to settle disputes is through peaceful negotiations. Violence will not work, and violence will not be tolerated.

I often think, as we discuss grand plans and great matters of state, that perhaps too often we don't say enough about the little things, programs that don't cost millions of dollars, but that reach out into our communities and try to make right that which was wrong, that try to help individuals in special circumstances.

I can't talk about them all tonight, but I would like to single out several that are worthy.

The Crime Victims Compensation Board, enacted by you in the 1976 General Assembly, has now granted 57 awards totaling $125,000, and other claims are in process. This is a good program, badly needed, and you can be proud of its accomplishments.

In recent months, Kentucky has become the first state to establish a program for battered women, for abused wives. Technical assistance is being provided by L.E.A.A. funds, so it costs nothing, but the understanding and aid that it can bring to countless women, the potential it has for dealing with a serious problem in our society must be applauded.

Likewise, I would call to your attention the Jefferson County truancy project, which this Administration has just launched. We all know the debilitating effects of truancy on our educational system, we know the juvenile delinquency and crime that it breeds, but in the past, if a student was an habitual truant, what did we do? We threw him out of school.

Now, with this pilot project, we will be able to attack the root of the problem and not just remove the symptom. Through mandatory training and guidance, the student will benefit from an effort that will hopefully get him back on the right path and give him skills so that he may go forward. The program will free the educational process to pursue its prime directive, and it will reduce crime, by preventing it before it has a chance to fester.

There is another aspect of this program of which I am proud, it is the example, small though it may be, of how many departments of government—both local and state—should and can work together. Here, we have had the State Departments of Justice, Human Resources, Education, as well as the local school board and the courts, all joining together for a common goal. I am confident they will succeed, and the program can be expanded throughout the state.

With regard to education, the members of the General Assembly and every citizen of this Commonwealth can be proud of our accomplishments. You know the record of *my* involvement and concern.

We have made giant strides in upgrading our public schools, stressing accountability to our long-term needs, increasing the availability and variety of educational opportunity.

We have established new programs to abolish instructional fees and provide free textbooks.

We have brought our system within inches of parity with surrounding states in terms of expenditures per child and teacher salaries and benefits.

We have increased assistance for exceptional children and for the handicapped.

We have extended our kindergarten program, and before I leave this office I fully intend for every child in this state to have a public kindergarten available to him or her.

We have implemented the power equalization program conceived by the General Assembly to give each of our children the same quality of education, regardless of location.

Through the Governor's Educational Task Force, we are systematically analyzing the weaknesses in the educational structure, replacing bad bricks with good, just as we are replacing old, inadequate schools with modern, new ones.

We have implemented the new career education program mandated by you and increased assistance for vocational and technical education. Two million dollars have been provided to fund the career education program, to provide education in such necessary and high-opportunity areas as mine health and safety and medical technology.

Seventeen million dollars have been earmarked for the construction of new vocational educational facilities.

A state commission for post-secondary education was established to formulate a comprehensive plan for the coordination of vocational education in Kentucky.

Based on these recommendations, I have created the Department for Occupational Education and the State Board of Occupational Education to further develop the opportunities for Kentucky students to seek training in the areas of the employment market where there is the greatest need.

Thus, for the first time in our state, we now have a coordinating policy making body for all occupational educational programs offered at all levels. This will now insure that we offer what needs to be taught where it needs to be taught without duplication and unnecessary programs costly to our taxpayers.

Through the Council for Public Higher Education, we now have developed comprehensive planning and better coordination of our institutions of higher learning. All our public institutions now have designated missions which make their educational responsibility clearly defined. Again we have avoided duplication of facilities and programs costly to our taxpayers.

This marks the beginning of a new era in higher education in Kentucky, an era that will see all our public universities functioning as a unified whole to respond to the needs of the Commonwealth as a whole.

To those who have charged that this Administration has been lax in its support of public higher education, I would point to a recent analysis of appropriations for higher education across the United States. Our increase in expenditures for the 1977-78 period ranks fourth in this nation, a 31 percent increase over the previous two-year period.

And we will not stop there, as I will make clear in my budget message soon to be delivered. For education is the cornerstone and lifeblood of our future, and in this Administration, it will take a back seat to no other needs.

Our Department for Natural Resources and Environmental Protection has been reorganized and strengthened.

I believe that the quality of Kentucky's air, water and land resources *must* be maintained for future generations, and that belief has been reflected in the actions of this Administration.

In the area of surface mine reclamation, the efforts of the Department have been unparalleled. Since the beginning of this Administration, we have collected over one million dollars in penalties resulting from the regulation of surface mining, and that far exceeds the amount collected during any previous periods.

We take no particular pride in the imposition and collection of these penalties, but they do serve notice to the coal industry, the public and the media that I view reclamation very seriously. I should also add that an enlightened and positive response on the part of *most* elements of the Kentucky coal industry has resulted in better reclamation than ever before achieved.

On August 1 of last year, a Harris survey indicated that 80 percent of the American people favored increased surface mining of coal while maintaining protection of the environment. My policies have reflected those sentiments. The mining of coal must increase to meet national energy needs, to meet Kentucky's economic needs, but it must be done in an environmentally sound manner, and there is no reason why it cannot be.

In order to protect the environment, the first surface mining permit revocations in the history of the Commonwealth have occurred during this Administration.

The state's enforcement program has improved, and the upgrading of job requirements of reclamation inspectors also has resulted in a greater sense of professionalism among enforcement personnel.

I know there are charges of abuse and corruption in the system, but any indication of illegal activity that we have received has been referred to the appropriate authorities for action. And I appeal to every citizen of this Commonwealth: If you have any evidence of illegal or questionable activity taking place with regard to mining and the reclamation program, then take it to the authorities.

Upon the production of evidence for prosecution, I will show you exactly what happens to those who would taint the fine employes of the Department by their corrupt acts.

In the 1976 Session of the General Assembly, I supported strengthening the state reclamation law and I intend to do so again this year. During the last Session, I supported a requirement that mine operators give public notice of their intention to mine, that penalties for violations be increased, and that maximum reclamation bonding fees be raised.

I intend to ask during this session that state law be brought into conformance with the U.S. Surface Mining Control and Reclamation Act of 1977, which President Carter signed into law last August.

I am not totally in agreement with all provisions of that Act, and I recognize the difficulties it presents to small operators. But it is the law of the land, and I will do everything within my personal power and capacity to effectively administer the mandate of Congress.

I might add that bringing Kentucky law into conformance with the Act during this Session of the General Assembly will be necesssary if the state is to be able to administer the 20 to 30 million dollars that will be coming to Kentucky annually for reclamation of abandoned mined lands.

Kentucky can assume administration of this fund from the U.S. Secretary of the Interior when we have an approved regulatory program. I am confident that the Kentucky coal industry will respond positively to the additional requirements of this Federal law and that reclamation will continue to improve.

As you know, the safety of our underground coal mine workers has been one of our major concerns. The Governor's task force on deep mine safety produced a report and legislation which you enacted at the special session in 1976. While we have had some difficulty in implementing the Act, it has received our personal attention to insure that no deficiency on our part lessened the safety of our underground coal miners.

In addition to our concentration on coal, we cannot forget the intelligent management of our water resources. We cannot ignore the damages of the floods and the actions we must take to circumvent future catastrophe.

We must be mindful of our dams, for we want no Buffalo Creek; we want no disaster similar to that which occurred several months ago in Georgia.

We must be ever vigilant against the danger of toxic substances and give every attention to the safe disposal of hazardous waste.

We must guard our land, our air and our water, for without them we cannot survive, and unless we maintain their purity, our prosperity will be short-lived.

In the past year, our Department for Human Resources has been completely reorganized, and its massive structure now functions as a series of integral units rather than separate entities.

It has been opened up—to its clients, to the citizens groups who act as advisors, to the press and to the general public.

Its administration has improved, and it now has efficiency, coordination and direction; it can now deliver its vital services in an organized and expeditious manner.

It has launched new and innovative programs—for the mentally retarded, for emotionally disturbed youngsters, for the handicapped—and it has reached out further to our senior citizens, to the less fortunate and disadvantaged than at any time in the past.

We are better able now, through effective management and control, to deliver welfare where it is needed and to cut it off where it is abused. Through my task force on welfare reform—and with the help of the General Assembly and the citizens of this Commonwealth—we will develop a system that insures that the needy are taken care of and welfare fraud punished. That is what the citizens who pay for welfare want, what they must have if they are to preserve and protect their own economic security. They deserve no less, and they will get no less from this administration.

In the area of commerce, let me single out three exciting programs that indicate the direction of hard work and innovation in this administration.

Since its creation in July of 1976, the Kentucky Film Commission has attracted a number of movies, television series and commercials to the state.

It's a small program, but let me tell you what it cost and what it brought in. It cost about $116,000 to produce direct revenues of almost two and one-half million dollars, with a total economic impact of over eight million dollars.

Our international division, in the last year, has brought six new foreign firms to the state, for an investment of over 25 million dollars. Four existing foreign industrial companies have expanded for a total of almost 31 million dollars in new facilities.

Although we do not have a direct measure of our program's impact on Kentucky's exports, 199 more Kentucky manufacturers, for a total of 425, reported the export of their products this year than reported in 1974. This means that the percentage of Kentucky manufacturers exporting is now twice the national average, and it can be safely estimated that Kentucky's export of manufactured, agricultural and mineral products has surpassed the billion dollar mark.

In 1976, I asked the General Assembly for an appropriation of seven million dollars to be used to develop Kentucky's river ports, and, as you know, I have supported the Tennessee-Tombigbee Waterway since my early days in the Legislature.

Already, we have seen the benefits. When the winter of 1977 hit, Paducah was the last ice-free port going north. It assumed the challenge, and many thousands of tons of gasoline, heating oil, agricultural products and steel were unloaded under the most adverse conditions, thus benefitting not only our fellow Kentuckians, but our northern ice-bound neighbors as well. And all of this was done at a profit.

When the river port and foreign trade zone program is complete, when the Tennessee-Tombigbee Waterway is finished, Kentucky will have an intermodal system of transportation that is second to no state in this nation.

Our highway system is already in that position. All the contracts have been let for our portion of the interestate system. Our toll road program is a masterpiece of transportation and economic recovery. And with the groundbreaking of Highway 80, we have finally begun to attack this problem of getting our coal to market efficiently and safely.

Through my constant national involvement in the energy crisis, and through my lobbying efforts in Washington, the Federal Government now realizes that getting our coal to the centers of this nation is of the utmost importance. And hopefully there is relief on the way.

In the ever-crucial area of agriculture, we have sought to develop new crops that can be profitably grown in the state, and to create new markets for existing farm products.

We have appropriated funds to the Department of Commerce to promote development of agri-business, and we seek constantly to develop an overall marketing program for farm products in both domestic and foreign markets.

We have sought to protect the interests of Kentucky's tobacco farmers through research and through insistence that the smoking-health controversy be resolved responsibly. And we should all applaud the considerable efforts of Senator Huddleston on behalf of our tobacco farmers.

We have sought fair fuel allocation and tax relief for farm families.

Agriculture is the second largest income producer in this Commonwealth, and some 150,000 families depend upon farms for a portion of their livelihood. While our state farm income is up, there are problems—as the demonstrations of the past few weeks have so amply shown.

The solution to the cost-price squeeze is in the hands of the Federal Government, but I can assure the farmers of this Commonwealth that we share their concern and will continue to advocate their interests wherever and whenever possible.

As you know, and as I have pointed out in several examples tonight, almost every major department of State Government has been reorganized, a process begun by Wendell Ford and extended vigorously by this Administration.

One of the major efforts we have made is in the reduction of state employes through our "proof-of-necessity" process initiated in January , 1977. We have now significantly less employes than we did when I took office, and no longer is there the steady 5 percent annual growth rate that took place in every previous Administration.

The savings generated by this control, coupled with our restructured pay system, have enabled the state to provide advancement and salary increases for essential employes. We have been able to recruit and retain employes in critical positions much more effectively, thus improving the quality of service that the state has been able to render.

The removal of assigned automobiles from state employes has enabled us to sell a number of cars and insure that state cars are not used for personal use.

We have completed a space utilization study in Frankfort, Louisville, and Lexington enabling State Government for the first time to be sure we do not overbuild in some areas while underbuilding in others.

We are now involved in centralizing our printing and duplicating and we have substantially reduced the paperwork of State Government.

The Governor's Financial Disclosure Review Commission has continued to function effectively, and in the three years since I established this process for all management personnel in State Government, the Commission has reported no conflicts of interest. Hopefully, this has helped to restore public confidence in the dedication and honesty of its elected and appointed officials.

For the first time in the history of this Commonwealth, there are now leasing policies to end a long-abused process. We have refined this system and will continue to do so until the public can know that honesty and openness are prime directives of this Administration.

By the same token, there has been criticism ever since I can remember over the securing of services by non-salaried employes. But there has been less abuse in this Administration than in any other, and I am determined that we do not purchase services we do not need, that the reporting procedure be adequate to identify potential problems and protect the public interest. We are now attempting to implement some major changes in this area. With your help, we will finally find the appropriate solutions.

Yes, we have made some mistakes, and yes, we have been criticized. When decisions are made, and action taken, on an unlimited range of programs and projects— errors will occur.

But the greater error would be to ignore justifiable criticism; to stick our heads in the sand of self-assured perfection. Consequently, we have recognized our mistakes, and responded to our critics, in what I believe to be a responsible and constructive manner. I have never confused the ability to find fault with the ability to have made the right decision at the outset, nor do I believe in serving as a reactionary for those whose criticism is ill-founded. But criticism and independent thought are at the heart of our system of government, and I welcome and will continue to respond to those who constructively illuminate our faults.

The implementation of the Judicial Article has been one of our most perplexing problems. Mandated by the people of Kentucky at the election in November, 1975, the Regular and Special Sessions in 1976 provided the framework for implementation. Special praise should be given to the leadership which our General Assembly has provided during this period of implementation. Quite frankly, we would never have been able to accomplish so much in such a short period of time had you not taken the initiative.

However, there are many problems yet to be resolved. With the continued cooperation we have received from the Judiciary and your strong leadership, I firmly believe we can fulfill the mandate of the people of Kentucky and make the implementation of the Judicial Article one of the hallmarks of our area of public service.

In the three years that I have served as Governor, we have been besieged by catastrophe—the bitterness and disruption of forced busing, the needless and tragic loss of life in the Beverly Hills fire, the Southeast Kentucky floods, the violence of mine strikes and the destruction of mine accidents. I know it is small consolation to those who have suffered irreparable loss, but those disasters have taught us how we must correct the inadequacies of our past and how we must protect our future.

For virtually all of my adult life I have been privileged to serve the people and the Commonwealth of Kentucky—as a Legislator, as Speaker of the House, as Lieutenant Governor and, finally, as Governor.

Thus, I can fully appreciate the tremendous responsibility which each member of this General Assembly has assumed as a lawmaker for the 3,300,000 people of Kentucky. I particularly understand the vast amount of work which must be accomplished by the various committee chairmen and legislative leaders.

The many years I spent in this Legislative Body have been some of my most satisfying years of public service.

During those years, I have looked up from our valleys; I have been to our mountain tops.

I have sailed our rivers and streams, on rough waters and smooth.

I have heard cheers for our prosperity, the continuing pleas of our poor.

I have heard laughter in our schoolyards, crying from our prisons.

I have walked our fertile fields and felt the rich earth of our sustenance.

I have held our black coal, awed by its blessing, troubled by its curse.

I have driven our bustling highways; I have heard the machinery of our progress.

I have walked in our past, and I have seen the promise our future holds.

I know it is good.

And when the history of *this* time is written, when our children and grandchildren inherit the Kentucky we will have made, let them say our vision was sound, our footprints firm, our cause just. Let *us* insure that they speak with truth.

Thank you.

God bless you in this new year.

Good night.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HJR 6, introduced for the Interim Joint Committee on Labor and Industry by Representatives Cyrus and Dietz: A JOINT RESOLUTION authorizing and directing the creation of a Task Commission on Workmen's Compensation and making an appropriation therefor.

HCR 7, by Representative McNutt: A CONCURRENT RESOLUTION requesting the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States protecting the right to life of all human beings during every stage of biological development.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 7, HB 8, HB 9, HB 10, HB 11, HB 38, HB 39, HB 40, HB 41.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, January 4, 1978.

On the roll call the vote was yeas 70-Adams, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gay, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Sale, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright. Nays 4-Deskins, Fitzgerald, Gray, Imes.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 4, 1978

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Herman M. Bowers, Frankfort.

The roll was called. All present except Representative Kidd.

Representative Isler moved that absent members be granted leave of absence. Agreed.

Representative Brinkley moved that the reading of the Journal of January 3, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 121, by Representatives Bruce, Morris, Brinkley, Adams, B. Richardson, J. Allen, Arnold, Blandford, Boatwright, Boswell, Carpenter, Clapp, Craddock, Foster, Guy, Imes, LeMaster, Pearman, Richards, Sale, Stone and Tobin: AN ACT relating to taxes.

HB 122, by Representative LeMaster: AN ACT relating to juveniles.

HB 123, by Representative Lindsay: AN ACT proposing an amendment to Sections 99, 103, 106 and 227 of the Constitution of Kentucky relating to sheriffs and jailers.

HB 124, by Representatives Schmidt and Holbrook: AN ACT relating to inheritance taxation.

HB 125, by Representatives Dunn and Wright: AN ACT relating to elections.

HB 126, by Representative B. Richardson: AN ACT relating to pretrial release and investigative services.

HB 127, by Representative B. Richardson: AN ACT pertaining to state property and buildings.

HB 128, by Representative Adams: AN ACT relating to community work experience programs.

HB 129, by Representative B. Richardson: AN ACT relating to motor vehicle reparations.

HB 130, by Representative Adams: AN ACT relating to credit life and health insurance.

HB 131, by Representative Adams: AN ACT relating to insurance.

HB 132, by Representative B. Richardson: AN ACT relating to juveniles.

HB 133, by Representative Adams: AN ACT relating to insurance agent examinations.

HB 134, by Representative DeFalaise: AN ACT relating to corrupt practices.

HB 135, by Representatives Weinberg, White, Guy, McKinney and Noe: AN ACT relating to absentee voting.

HB 136, by Representative DeFalaise: AN ACT relating to condemnation powers of utilities.

HB 137, by Representative DeFalaise: AN ACT relating to campaign contributions.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 88, HB 89, HB 114.**

Appropriations and Revenue: **HB 61, HB 83, HB 93, HB 105, HB 109, HB 110, HB 112.**

Business Organizations and Professions: **HB 52, HB 53, HB 86, HB 100, HB 101, HB 104.**

Cities: **HB 74, HB 81, HB 87, HB 94, HB 111.**

Counties and Special Districts: **HB 58, HB 68, HB 72, HB 91, HB 103, HB 106, HB 107.**

Education: **HB 71, HB 76, HB 84, HB 85, HB 92, HB 113, HB 115, HB 116, HB 117, HB 118.**

Elections and Constitutional Amendments: **HB 56, HB 73, HB 75, HB 96, HB 97, HB 120, HCR 7.**

Health and Welfare: **HB 62, HB 70, HB 77, HB 78, HB 79, HB 80, HB 98, HB 99, HB 102.**

Highways and Traffic Safety: **HB 57, HB 59, HB 60, HB 63, HB 67, HB 108.**

Judiciary-Courts: **HB 69.**

Judiciary-Statutes: **HB 54, HB 82, HB 95.**

Labor and Industry: **HJR 6.**

Public Utilities and Transportation: **HB 65, HB 66.**

State Government: **HB 55, HB 64, HB 90, HB 119, HJR 5.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 22, HB 109, HB 110.**

Cities: **HB 42, HB 43, HB 44, HB 45.**

Highways and Traffic Safety: **HB 24, HB 25, HB 26.**

Motions, Petitions and Communications

The following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Tobin, HCR 7; Representative Noe, **HB 17**; Representatives Brinkley and Stone, **HB 83.**

The Clerk announced the following membership of the Committee on Committees, House of Representatives, 1978:

Committee on Committees

William Kenton
Lloyd Clapp
Bobby Richardson
William Donnermeyer
Dwight Wells
Harold DeMarcus

The Clerk announced the following membership of the Committee on Enrollment, House of Representatives, 1978:

Committee on Enrollment

John Isler, Chairman
Dottie Priddy, Vice Chairman
Sam Thomas
Charles Holbrook
Mary Ann Tobin

Announcements

Representative B. Richardson announced a meeting of the Committee chairmen in Room 307 on adjournment.

The following announcements were made concerning committee meetings:

Agriculture and Natural Resources: No meeting tomorrow.

State Government: No meeting tomorrow.

Cities: 10:00 a.m., Room 307, January 5, 1978.

Elections and Constitutional Amendments: No meeting tomorrow.

Task Force on Comprehensive Care: 9:00 a.m., House Chamber, January 5, 1978.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, January 5, 1978.

On the roll call the vote was yeas 68-Adams, J. Allen, Arnold, Bendl, Blandford, Boatwright, Boswell, Bruce, Burnette, Carpenter, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guy, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Tobin, Trevey, Wells, White, Wilborn, Williams, Wright, Yates. Nays 7-Bennett, Deskins, Fitzgerald, Gray, Guenthner, Imes, Plummer.

The motion to adjourn was adopted.

THURSDAY, JANUARY 5, 1978

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Herman M. Bowers, Frankfort.

The roll was called. All present except Representatives Crupper, Kidd and Thomas.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 4,1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 138, by Representatives Brinkley and Boatwright: AN ACT relating to parole of prisoners.

HB 139, by Representative Patrick: AN ACT relating to the motor vehicle usage tax.

HB 140, by Representative DeFalaise: AN ACT relating to controlled substances.

HB 141, by Representatives Noe, Burnette, Dawahare, Gay, Gray, Guy, Kleier, List, Little, Weinberg and Worthington: AN ACT relating to hunting and fishing.

HB 142, by Representative B. Richardson: AN ACT relating to claims against the Commonwealth and its employes.

HB 143, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 144, by Representative DeMarcus: AN ACT relating to the legislative research commission and making an appropriation therefor.

HB 145, by Representatives F. Smith, B. Richardson, W. Allen, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Cyrus, Davenport, DeFalaise, Deskins, Donnermeyer, Gay, Gray, Guy, Head, Hines, Holloway, Imes, Isler, Johnson, Jones, LeMaster, List, Mann, McBee, McKinney, McNutt, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, Riner, Romines, Stone, Thomas, Tobin, Trevey, Weinberg, Wilborn, Williams and Worthington: AN ACT relating to the members of the General Assembly.

HB 146, by Representative F. Smith: AN ACT relating to condemnation.

HB 147, by Representatives Stone, Foster and Head: AN ACT relating to watershed conservancy districts.

HB 148, by Representatives Trevey, W. Allen, Burnette, Carpenter, Davenport, Dawahare, DeFalaise, Fitzgerald, Gay, Haering, Holloway, Layman, List, Marcum, McKinney, Patrick, Pearman, Plummer, Priddy, F. Smith, Van Horn and Wright: AN ACT relating to sales and use taxes.

HB 149, by Representatives Dunn, Yates, Bendl, Bennett, Benson, Blythe, Burch, Guenthner, Haering, Hines, Holloway, Kidd, Kleier, Maynard, Nett, O'Brien, Priddy, Riner, Romines, Siemens, Williams and Wright: AN ACT proposing an amendment to Section 144 of the Constitution of Kentucky relating to Fiscal Courts.

HB 150, by Representatives Fitzgerald, LeMaster, Arnold, Bruce, Clarke, DeFalaise, Deskins, Gray, Guy, Head, Johnson, Jones, Kleier, Lindsay, List, Morris, Nett, Noe, O'Brien, Richards, B. Richardson, Sale, Thomas, Weinberg, Wells, White and Yates: AN ACT relating to the acquisition, use, control and disposition of property.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 121, HB 124.**

Banking and Insurance: **HB 129, HB 130, HB 131, HB 133.**

Elections and Constitutional Amendments: **HB 123, HB 125, HB 134, HB 135, HB 137.**

Health and Welfare: **HB 122, HB 128, HB 132.**

Judiciary-Statutes: **HB 126, HB 136.**

State Government: **HB 127.**

The Clerk announced the following referrals of the Governor's issue letters:

1. Governor's issue letter on social security has been referred to Appropriations and Revenue.

2. The Governor's issue letter on comprehensive care centers has been referred to Health and Welfare.

3. The Governor's issue letter on the student loan program has been referred to Education.

4. The Governor's issue letter on energy development and trust fund has been referred to Appropriations and Revenue.

5. The Governor's issue letter on House Bill 84 of the 1974 Session (aid to families with dependent children of unemployed fathers) has been referred to Health and Welfare.

6. The Governor's issue letter on KERS and KTRS has been referred to State Government.

7. The Governor's issue letter on coal severance tax has been referred to Appropriations and Revenue.

8. The Governor's issue letter on area differentials in payment of state employes has been referred to State Government.

9. The Governor's issue letter on unemployment compensation programs has been referred to Labor and Industry.

10. The Governor's issue letter on sales tax on utility bills has been referred to Appropriations and Revenue.

11. The Governor's issue letter on the unified prosecutorial system has been referred to Judiciary-Courts.

12. The Governor's issue letter on the state-provided housing has been referred to State Government.

13. The Governor's issue letter on equal employment opportunities for state employes has been referred to State Government.

14. The Governor's issue letter on unmarked state-owned vehicles has been referred to State Government.

15. The Governor's issue letter on wage and hour legislation has been referred to Labor and Industry.

16. The Governor's issue letter on the auditor of public accounts has been referred to State Government.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 100, HB 101, HB 104, HB 52, HB 53.**

Banking and Industry: **HB 5.**

Counties and Special Districts: **HB 103, HB 48, HB 30, HB 31.**

State Government: **HB 90.**

Judiciary-Courts: **HB 46, HB 50.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 22** and **HB 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 22, AN ACT relating to motor vehicle usage tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county court clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two and one-half percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450(3), in no case shall the tax be less than five dollars ($5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within *sixty (60)* [ten (10)] days for a new vehicle replacement *or a refund of the purchase price*, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer *refunds the retail purchase price or* replaces *a new motor vehicle* for the original purchaser within ninety (90) days [a new motor vehicle] because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

HB 110, AN ACT relating to the contracting for personal services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act:

(a) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the legislature, authorized by law to contract for personal services;

(b) "Subcommittee" means personal service contract review subcommittee;

(c) "Personal service contract" means any instrument, document, memorandum, or agreement by which personal services are contracted.

(2) Compliance with the provisions of this Act does not dispense with the requirements of any other law necessary to make the personal service contract valid.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Each contracting body shall file within one (1) year of July 1, 1978, in accordance with the provisions of this Act, a copy of all personal service contracts which were made by such contracting body prior to July 1, 1978, and which are still effective, and a copy of all personal service contracts which were made by such contracting body prior to July 1, 1978 and which do not become effective until after July 1, 1978.

(2) All personal service contracts made prior to July 1, 1978, whether or not they shall have become effective, are rescinded effective one (1) year after July 1, 1978.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section no personal service contract made by any contracting body after July 1, 1978, shall become effective until after seven (7) copies of the personal service contract are forwarded to the office of the legislative research commission, and:

(a) The proposed personal service contract has been reviewed by the subcommittee as required by the provisions of this Act, and

(b) The proposed personal service contract is reviewed by the appropriate interim or standing committees of the general assembly, if required by the provisions of this Act.

(2) The requirements of subsection (1) of this section shall not apply when the contracting body finds that an emergency exists and the governor issues an executive order that the personal service contract become effective immediately upon a copy being filed in the office of the legislative research commission. A personal service contract so filed shall expire at the end of one hundred and twenty (120) days, during which time the proposed personal service contract may be processed in accordance with this section if the contracting body desires it to become permanent. The general assembly hereby declares that it is the state policy that emergencies are held to a minimum.

(3) Each copy of a proposed personal service contract submitted to the legislative research commission shall be accompanied by documentation of:

(a) The need for such service; and

(b) The unavailability of state personnel to perform such service or the non-feasibility of utilizing state personnel to perform such service.

(4) The legislative research commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, with suitable indexes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the personal service contract review subcommittee. The subcommittee shall be composed of five (5) members, no more than three (3) of whom shall be members of the same political party. The legislative

research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts received by the legislative research commission shall be submitted to the subcommittee to:

(a) Determine the need for the contract service;

(b) Determine if the service could or should be performed by state personnel; and

(c) Examine the cost and duration of the contract.

The subcommittee's finding that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive shall be reported to the contracting body. In the event the subcommittee determines that the contract service, other than an emergency contract approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and shall return the personal service contract to the contracting body. Notice of such objection shall be given by the subcommittee to the director of the legislative research commission. The subcommittee shall act on a personal service contract submitted to the legislative research commission within thirty (30) days of the submission of the personal service contract.

(5) The contracting body may revise a personal service contract to comply with the subcommittee's objections, and may return a copy of the personal service contract with the subcommittee's notation attached, without change. The personal service contract may take effect immediately if it is not objected to by the subcommittee.

(6) In the event a contracting body returns a personal service contract, objected to by the subcommittee, to the legislative research commission without change, the personal service contract shall be referred by the director to the appropriations and revenue committees of the house of representatives and senate or to the interim committee on appropriations and revenue. The standing committees of the house and senate or the interim committee shall review the personal service contract in the same manner as did the personal service contract review subcommittee. In the event the standing committees of the house and senate or the interim committee determines that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the standing committees or the interim committee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and the director shall return the personal service contract to the contracting body. Notice of such objection shall be given by the standing committees or by the interim committee to the director of the legislative research commission. The standing committees or interim committee shall act on a personal service contract submitted in accordance with this section within thirty (30) days of the date the contracting body returns the personal service contract: Provided, however, if there are no authorized meetings of the standing committees or the interim committee within such thirty (30) day period, the legislative research commission shall take action on the returned personal service contract in the same manner herein described at its next regularly scheduled meeting.

(7) The contracting body may revise a personal service contract to comply with the interim or standing committee's objections, and may return a copy of the revised personal service contract to said committee, or may return a copy of the personal service contract with the interim or standing committee's notation attached, without change. In either event, the personal service contract may take effect immediately.

(8) The subcommittee shall report monthly to the legislative research commission all action taken on contracting bodies' personal service contracts. The director of the legislative research commission shall report to the commission all action taken by the standing committees or by the interim committee.

(9) All personal service contracts objected to by the subcommittee and by the standing committees or interim committee and not revised by the contracting body together with the notations of the subcommittee's, the standing committee's, or interim committee's objection shall be transmitted by the director to the clerk of the senate and the clerk of the house of representatives on or before the first day of each regular session of the general assembly. The clerk of the senate and clerk of the house of representatives shall lay all personal service contracts before the senate and the house of representatives, respectively, for such action, as the respective legislative bodies may determine to be appropriate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The legislative research commission shall prescribe the manner and form in which the documentation to accompany the proposed personal service contract shall be presented.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended to allow the Mayor of Frankfort and members of the Frankfort City Commission the privilege of the floor. Agreed.

The Honorable James C. Burch, Mayor of the City of Frankfort, and the members of the City Commission came forth. Mayor Burch welcomed the members of the General Assembly and introduced the members of the Frankfort City Commission.

Representative Noe announced a freshman caucus in Room 305.

Representative Clarke announced Appropriations and Revenue hearings will be held on January 11 and 12 at 9:30 a.m. with place to be announced later.

Representative Fitzgerald moved that **HB 107** and **HB 49** be reassigned as follows:

Judiciary-Statutes: **HB 107.**

Judiciary-Courts: **HB 49.**

Representative Fitzgerald moved that a call of the roll be taken to show co-sponsors of **HB 150.**

The following members voted to co-sponsor **HB 150:** Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Dawahare, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Guenthner, Haering, Head, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McKinney, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. The following members voted "nay" on the roll call for co-sponsors of **HB 150:** Hancock.

The following members having first received permission of the primary sponsors filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative F. Smith, **HB 17, HB 22, HB 52;** Representative Davenport, **HB 61;** Representative Craddock, **HB 83;** Representative Noe, **HB 113;** Representative McKinney, **HB 113, HB 114, HB 115.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, January 6, 1978.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendle, Bennett, Benson, Beshear, Blandford, Boswell, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Trevey, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-DeFalaise, Deskins, Gray, Guenthner, Imes, Maynard, Patrick, Van Horn.

The motion to adjourn was adopted.

FRIDAY, JANUARY 6, 1978

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Herman M. Bowers, Frankfort.

The roll was called. All present except Representatives J. Allen, W. Allen, Benson, Blythe, Boswell, Burch, Davenport, Dawahare, DeFalaise, Deskins, Fitzgerald, Guenthner, Hurst, Kidd, Lindsay, Little, Maynard, O'Brien, Overstreet, Priddy, Stewart, and Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 5, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 151, by Representatives White, Deskins, Holbrook and Van Horn: AN ACT relating to insurance.

HB 152, by Representative Fitzgerald: AN ACT relating to the powers and functions of county government.

HB 153, by Representative Schmidt: AN ACT relating to taxing districts.

HB 154, by Representative Gay: AN ACT relating to the use of amphetamines.

HB 155, by Representatives Jones, DeFalaise, Burnette, Cyrus, Deskins, Fitzgerald, Hancock and McNutt: AN ACT relating to sexual exploitation of children.

HB 156, by Representatives Riner, McKinney, W. Allen, Arnold, Blandford, Boatwright, Brinkley, Brown, Bruce, Crupper, Deskins, Foster, Haering, Holloway, Johnson, List, McNutt, Morris, Noe, Patrick, Pearman, P. Richardson, Stone, Tobin and White: AN ACT relating to the Ten Commandments.

Reference of Bills and Resolution

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 141, HB 147.**

Appropriations and Revenue: **HB 139, HB 143, HB 148.**

Elections and Constitutional Amendments: **HB 149.**

Health and Welfare: **HB 140.**

Judiciary-Statutes: **HB 138, HB 146.**

State Government: **HB 142, HB 144, HB 145, HB 150.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 129.**

State Government: **HB 127.**

Judiciary-Statutes: **HB 126.**

Business Organization and Professions: **HB 1, HB 2, HB 3, HB 35.**

Calendar

HB 22 and **HB 110** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended to introduce and allow the privilege of the floor to the Speaker of the House of Representatives of the State of Connecticut. Agreed.

Representative Riner moved that a call of the roll be taken to show co-sponsors of **HB 156.**

The following members voted to co-sponsor **HB 156:** Adams, Arnold, Bennett, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Craddock, Crupper, Cyrus, Donnermeyer, Foster, Gary, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Layman, List, Marcum, McKinney, McNutt, Morris, Noe, Patrick, Pearman, Petty, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Stone, Thomas, Trevey, Van Horn, White, Wright, Yates.

The Clerk announced a meeting of the Committee on Cities, January 10, 1978, 9:00 a.m., Room 327.

The following members having first received permission of the primary sponsors filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Brinkley, **HB 143;** Representative Cyrus, **HB 113;** Representative Holbrook, **HB 113, HB 115;** Representative Imes, **HB 83, HB 143;** Representative LeMaster, **HB 143;** Representative LeMaster, **HB 142;** Representative Riner, **HB 71;** Representative Stone, **HB 143;** Representative Thomas, **HB 17, HB 22, HB 44, HB 95, HB 155;** Representative Trevey, **HB 143;** Representative Wright, **HB 143.**

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, January 9, 1978.

On the roll call the vote was yeas 65-Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Brinkley, Bruce, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, Pearman, Petty, Plummer, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Trevey, Weinberg, Wells, White, Wilborn, Wothington, Yates. Nays 5-Gray, Imes, Patrick, Van Horn, Williams.

The motion to adjourn was adopted.

MONDAY, JANUARY 9, 1978

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representatives W. Allen, Benson, Burnette, Crupper, DeFalaise, DeMarcus, Dietz, Donnermeyer, Fitzgerald, Gay, Hurst, Kidd, Marcum, Maynard, Patrick, Priddy, Siemens, Wells and Williams.

Representative Wilborn moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 6, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 157, by Representative B. Richardson: AN ACT relating to the Kentucky Housing Corporation.

HB 158, by Representative B. Richardson: AN ACT relating to hotels and food service establishments.

HB 159, by Representative B. Richardson: AN ACT relating to vital statistics.

HB 160, by Representatives LeMaster, Craddock, and Jones: AN ACT relating to custodial interference.

HB 161, by Representatives Burch, Maynard, Bennett, Blandford, Cyrus, Gay, Kleier, Little, Mann, McKinney, Pearman, Petty, Priddy, Robinson, Schmidt, Tobin, Van Horn and Yates: AN ACT relating to the general assembly.

HB 162, by Representative Richards: AN ACT relating to the practice of counseling.

HB 163, by Representative Romines: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property tax exemptions.

HB 164, by Representatives Romines and Pearman: AN ACT relating to estate taxes.

HB 165, by Representatives Nett, Bennett, Burch, and Haering: AN ACT relating to elections.

HB 166, by Representatives Nett, Bennett, Burch, Haering and Wright: AN ACT relating to elections.

HB 167, by Representative Nett: AN ACT relating to teacher certification.

HB 168, by Representatives Nett, Burch, and Haering: AN ACT relating to textbooks and supplementary materials and making an appropriation therefor.

HB 169, by Representative Trevey: AN ACT relating to real property leases and rentals.

HB 170, by Representatives Pearman, Romines, W. Allen, Arnold, Blandford, Blythe, Boswell, Brinkley, Craddock, Davenport, Dawahare, Foster, Holloway, Hurst, Layman, Little, Petty, Riner, F. Smith, Stone and White: AN ACT relating to inheritance and estate taxes.

Senate Message

Announcing passage of **SB 51.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 151.**

Counties and Special Districts: **HB 152, HB 153.**

Health and Welfare: **HB 154.**

Judicary-Statutes: **HB 155.**

State Government: **HB 156.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 92, HB 84, HB 76, HB 85, HB 113, HB 115, HB 116.**

Elections and Constitutional Amendments: **HB 56.**

Judiciary-Statutes: **HB 155.**

Highways and Traffic Safety: **HB 23, HB 67.**

Agriculture and Natural Resources: **HB 12.**

Motions, Petitions and Communications

Representative Imes filed Floor Amendment No. 1 to **HB 22.**

The following members having first recieved permission of the primary sponsors filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 12;** Representative Burch, **HB 155;** Representative F. Smith, **HB 9.**

Representative Richards announced the Committee on Education will not meet this week but will meet next week as scheduled on January 18, 1978.

Representative Lindsay announced the Committee on Judiciary-Courts meeting on Tuesday, January 10, 1978 has been changed from 8:00 a.m. until 9:00 a.m., Room 307.

Representative Benson announced the Joint Committee on Cities will meet Tuesday, January 10, 1978, 9:00 a.m. and on Thursday, January 12, 1978, 10:00 a.m., Room 327.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 10, 1978.

On the roll call the vote was yeas 52-Adams, J. Allen, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Brown, Carpenter, Clapp, Clarke, Davenport, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Kenton, Layman, LeMaster, List, Little, Mann, May, McBee, McKinney, Nett, Noe, O'Brien, Overstreet, Pearman, Plummer, Rattliff, Richards, B. Richardson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Weinberg, White, Wilborn, Worthington, Yates. Nays 8-Blythe, Brinkley, Fitzgerald, Gray, Guenthner, Imes, P. Richardson, Van Horn.

The motion to adjourn was adopted.

TUESDAY, JANUARY 10, 1978

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representative Kidd.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 9, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 171, by Representative Kenton: AN ACT relating to emergency preparedness, and making an appropriation therefor.

HB 172, by Representative B. Richardson: AN ACT relating to insurance.

HB 173, by Representatives Dietz, Isler and Petty: AN ACT changing the classification of the City of Villa Hills, in Kenton County.

HB 174, by Representative Tobin: AN ACT proposing an amendment to Section 31 of the Constitution of Kentucky relating to members of the General Assembly.

HB 175, by Representative Kenton: AN ACT relating to disasters and establishing the Kentucky disaster loan authority, and making an appropriation therefor.

HB 176, by Representative Kenton: AN ACT relating to rescue organizations and making an appropriation therefor.

HB 177, by Representatives DeFalaise, Guenthner, Gay, Haering and Mann: AN ACT proposing an amendment to Section 180 of the Constitution of Kentucky relating to taxation.

HCR 8, by Representatives Guenthner, W. Allen, Davenport, Rattliff, Schmidt and Trevey: A CONCURRENT RESOLUTION directing an investigation of the issuance of strip mining permits.

HR 9, by Representative DeMarcus and B. Richardson: A RESOLUTION amending Rule 49 of the Rules of the House of Representatives.

HCR 10, by Representatives DeFalaise, Guenthner, Gay, Haering, Marcum and Patrick: A CONCURRENT RESOLUTION memorializing the Congress of the United States to call a convention pursuant to Article V for the purpose of proposing an amendment to the Constitution of the United States limiting Congress' power to lay and collect taxes.

Senate Message

Announcing passage of **SB 64.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 164, HB 170.**

Education: **HB 167, HB 168.**

Elections and Constitutional Amendments: **HB 163, HB 165, HB 166.**

Health and Welfare: **HB 157, HB 158, HB 159, HB 162.**

Judiciary-Courts: **SB 51.**

Judiciary-Statutes: **HB 160.**

State Government: **HB 161, HB 169.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 64, HB 142.**

Highways and Traffic Safety: **HB 108.**

Appropriations and Revenue: **HB 61, HB 83.**

Elections and Constitutional Amendments: **HB 125.**

Counties and Special Districts: **HB 72, HB 68, HB 51.**

Report of Committees

The Committee on Counties and Special Districts reported **HB 102,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 103, AN ACT relating to county clerk's bonds.

WHEREAS, Senate Bill No. 15 of the 1976 Extraordinary Session of the General Assembly repealed Section 28.020 of the Kentucky Revised Statutes which provided for a bond for county clerks; and

WHEREAS, as of January 2, 1978 county clerks will not be covered by a bond to protect revenues of the Commonwealth; and

WHEREAS, Section 103 of the Constitution of Kentucky requires that county court clerks shall, before they enter upon duties of their office, give such bond and surety as may be prescribed by law;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Every county clerk, before entering on the duties of his office, shall execute bond to the Commonwealth, with corporate surety authorized and qualified to become surety on bonds in this state. Any county clerk holding office as of January 1, 1978 who has not executed bond as provided herein shall do so within thirty (30) days from the effective date of this Act.

Section 2. In counties containing a city of the first class, the amount of the county clerk's bond shall be at least two hundred thousand dollars ($200,000). In counties containing a city of the second class, the amount of county clerk's bond shall be at least one hundred thousand dollars ($100,000). In all other counties the amount of the county clerk's bond shall be at least fifty thousand dollars ($50,000).

Section 3. The bond of the county clerk shall be examined and approved by the county judge/executive. The clerk shall record the bond in his records and a copy of the bond shall be transmitted within one (1) month to the department of revenue, where it shall be recorded and preserved.

Section 4. Where circumstances in a particular county indicate that the amount of the bond may not be sufficient, the department of revenue may request the county judge/executive to increase the bond as provided in Section 62.060 of the Kentucky Revised Statutes. The county judge/executive will then require a bond of sufficient amount to safeguard the Commonwealth.

Section 5. Whereas, as of January 2, 1978 county court clerks may not be covered by a bond to protect revenues of the Commonwealth, an emergency is declared to exist and this Act shall become effective on its passage and approval by the governor.

The Committee Amendment to **HB 103** is as follows:

Amend printed copy of **HB 103,** page 2, line 12 and after 24, on line 12, page 2 after the period "." insert the following:

"Except in those counties where the fees of the county clerk are paid into the state treasury, the premium on the county clerk's bond shall be paid by the county."

and on page 2, line 24, insert the following:

"Section 6. KRS 62.145 is repealed."

The Committee on Business Organizations and Professions reported **HB 35** and **HB 100** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 35, AN ACT relating to dental hygienists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.270 is amended to read as follows:

(1) The board shall meet as often and at such places as it deems necessary for examination of applicants who desire to practice dental hygiene in this state. The board shall keep a record of the names, addresses and license numbers of all persons legally entitled to practice dental hygiene in this state.

(2) The board may adopt and enforce such rules and regulations as it deems necessary and reasonable to carry out the provisions of KRS 313.260 to 313.350 *and shall establish a continuing education program for dental hygienists.*

Section 2. KRS 313.290 is amended to read as follows:

Any person [of good moral character] over eighteen (18) years of age who is [a citizen of the United States of America,] a graduate of an accredited high school *or the equivalent,* and has successfully completed a training program in a school of dental hygiene that is accredited by the Council on Dental Education of the American Dental Association and approved by the board, shall be eligible to take the examination for the practice of dental hygiene.

Section 3. KRS 313.300 is amended to read as follows:

(1) Any eligible person desiring to practice dental hygiene shall make written application to the board to take the examination. Such application shall be accompanied by a written recommendation of two (2) reputable dentists *or two (2) dental faculty members* [of this state,] and by an examination fee of twenty-five dollars ($25.00), which sum is authorized to be charged for each examination by the board.

(2) As soon as the board has determined that an applicant has successfully passed the examination, a license to practice dental hygiene in this state shall be issued by the board to such applicant. The license shall be for one (1) calendar year or for the remaining portion thereof if issued as of a date after January 1. Each license shall be renewed from year to year, except for cause as herein provided.

(3) The board shall charge ten dollars ($10.00) for each license certificate or duplicate license certificate issued, which sum shall be paid in advance or at the time the license is issued.

Section 4. KRS 313.303 is amended to read as follows:

(1) The board, upon the affirmative vote of all members present at any meeting, may issue a license without examination to an applicant who furnishes satisfactory proof that the applicant is a graduate of an accredited school of dental hygiene in any state or territory of the United States or the District of Columbia and who holds a license from a similar dental board having requirements and standards equal to or greater than those of this state.

(2) An application for the license provided by this section shall be made on forms prescribed by the board and accompanied by:

(a) A fee for review of qualifications of the applicant of twenty-five dollars ($25.00); and

(b) A recommendation from the dental board of the state or territory of the United States or the District of Columbia where the applicant has practiced.

(3) No license shall be issued under this section unless the state or territory of the United States or the District of Columbia where the applicant has practiced grants a similar privilege to applicants holding a dental hygienist's license from this state.

[(4) The board shall charge ten dollars ($10.00) for each annual certificate of renewal of any license issued in accordance with the provisions of this section.]

SECTION 5. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) By December 31 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board, evidence satisfactory to the board that such dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for such hardship or other extenuating circumstances as the board deems appropriate.

(2) By March 1 of each year, every dental hygienist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee of ten dollars ($10) or an amount as hereinafter prescribed by the board. The dental hygienist shall thereupon receive a license renewal certificate provided that he has also complied with the requirements of subsection (1) of this section. The board may fix the annual renewal license fee at such amount, not less than ten dollars ($10) nor more than twenty dollars ($20), as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dental hygienist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

Section 6. KRS 313.310 is amended to read as follows:

No person shall practice dental hygiene nor hold himself out as a dental hygienist without a license issued by the board, and unless he is an employe of a licensed and practicing dentist in this state and is under the continuous supervision and inspection of such dentist, provided that the board, in its discretion, may grant permission for the employment of a dental hygienist by any organization. [A practicing dentist may not have in his employ more than two (2) dental hygienists.] The license for each dental hygienist shall be continuously displayed in a conspicuous place in the office of the licensee.

Section 7. KRS 313.330 is amended to read as follows:

(1) The board may, upon complaint or upon its own motion, after a hearing, and after ten (10) days' notice, in writing, to the licensee of the time and place of hearing, revoke or suspend or refuse to renew the license of any dental hygienist by entering an order to that effect, together with its findings in respect thereto, if it shall be determined that such licensee:

(a) Has violated *or failed to comply with* any of the provisions of KRS 313.260 to 313.350 or any regulation made thereunder; or

(b) Has made a material false statement in his application for examination; or

(c) [No longer possesses good moral character; or]

[(d)] Directly or indirectly advertises or solicits for dental hygiene business; or

(d) [(e)] Is grossly inefficient in his profession.

(2) In any proceeding to revoke, suspend or refuse to renew the license of any licensee a certified copy of any order entered by the board shall immediately be delivered or sent to the licensee by certified mail, return receipt requested or by registered mail at his last known address.

HB 100, AN ACT relating to licensing and public employment qualifications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 335B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

AS used in this Act, unless the context requires otherwise:

(1) "Occupation" includes all occupations, trades, vocations, professions, businesses, or employment of any kind for which a license is required to be issued by the Commonwealth of Kentucky, its agencies, or political subdivisions.

(2) "License" includes all licenses, permits, certificates, registrations, or other means required to engage in an occupation which are granted or issued by the Commonwealth of Kentucky, its agents or political subdivisions before a person can pursue, practice, or engage in any occupation.

(3) "Public employment" includes all employment with the Commonwealth of Kentucky, its agencies, or political subdivisions.

(4) "Conviction of crime" shall be limited to convictions of felonies, high misdemeanors, and misdemeanors for which a jail sentence may be imposed. No other criminal conviction shall be considered.

(5) "Hiring or licensing authority" shall mean the person, board, commission, or department of the Commonwealth of Kentucky, its agencies or political subdivisions, responsible by law for the hiring of persons for public employment or the licensing of persons for occupations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law to the contrary, no person shall be disqualified from public employment, nor shall a person be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely because of a prior conviction of a crime, unless the crime for which convicted directly relates to the position of employment sought or the occupation for which the license is sought.

(2) In determining if a conviction directly relates to the position of public employment sought or the occupation for which the license is sought, the hiring or licensing authority shall consider:

(a) The nature and seriousness of the crime for which the individual was convicted;

(b) The relationship of the crime to the purposes of regulating the position of public employment sought or the occupation for which the license is sought;

(c) The relationship of the crime to the ability, capacity, and fitness required to perform the duties and discharge the responsibilities of the position of employment or occupation.

(3) The burden of proof that the conviction is directly related to the position of public employment sought or the occupation for which the license is sought shall be upon the hiring or licensing authority.

(4) Nothing in this Act shall be construed so as to limit the power of the hiring or licensing authority to determine that an individual shall be entitled to public employment or a license regardless of that individual's conviction if the hiring or licensing authority determines that the individual has been successfully rehabilitated.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

If a hiring or licensing authority denies an individual a position of public employment or disqualifies the individual from pursuing, practicing, or engaging in any occupation for which a license is required, solely because of the individual's prior conviction of a crime, the hiring or licensing authority shall notify the individual in writing of the following:

(1) The grounds and reasons for the denial or disqualification;

(2) That the individual has the right to a hearing if written request for hearing is made within sixty (60) days after service of notice;

(3) The earliest date the person may reapply for a position of public employment or a license; and

(4) That evidence of rehabilitation may be considered upon reapplication.

SECTION 4. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

A person may be denied a license on the grounds that he does not possess good moral character, as specified in Section 5 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:

(1) A person possesses good moral character unless he has done any of the following:

(a) He has done any act which, if done by a licensee of the occupation in question, would be grounds for the suspension or revocation of his license.

(b) He has done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(c) No act shall be grounds for the denial, revocation or suspension of a license, however, which does not have a substantial relationship to the functions and responsibilities of the licensed occupation and in the same manner and to the same effect as provided in Section 2 of this Act.

(2) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar grounds relating to an applicant's character, reputation, personality, or habits unless the applicant's character, reputation, personality or habits directly contravene the standards of good moral character as defined in subsection (1) of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:
Within thirty (30) days after final action by the hiring or licensing authority following a hearing, an aggrieved party may petition the Franklin Circuit Court for review. The court shall decide the case on the record, and shall not set aside the hiring or licensing authority order except for errors of law, or upon a finding that the hiring or licensing authority's action was arbitrary or capricious.

SECTION 7. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:
The provisions of this Act shall prevail over any other laws, rules and regulations which purport to govern the granting, denial, renewal, suspension, or revocation of a license or the initiation, suspension, or termination of public employment on the grounds of conviction of a crime or crimes.

SECTION 8. A NEW SECTION OF KRS CHAPTER 335B IS CREATED TO READ AS FOLLOWS:
The provisions of this Act shall not apply to:

(1) The practice of law; but nothing in this section shall be construed to preclude the Supreme Court in its discretion, from adopting the policies set forth in this Act.

(2) Deputy sheriffs, deputy constables, patrol or other nonelective peace officers or deputy peace officers, for whom qualifications are set forth in KRS 61.300.

The Committee on Banking and Insurance reported **HB 5** and **HB 129** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 5, AN ACT relating to insurance taxes and license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 92.285 is amended to read as follows:

(1) The legislative body of each city *or urban county government* which is authorized to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of all ordinances and amendments thereto which impose any such license fee or tax.

(2) Any license fee or tax imposed by such a city *or urban county government* upon any fire insurance company shall be based upon a percentage of the premiums received by the company within the preceding calendar year, for insurance on property located within the corporate limits of the city *or urban county government*, less all premiums returned to policyholders. A fire insurance company entering a city *or urban county government* during a license year shall at the end thereof promptly pay to such city *or urban county government* the full additional tax due on such percentage basis.

(3) Any license fee or tax imposed by such a city *or urban county government* upon a life insurance company may be based upon premiums received, and if so based shall be applied to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city *or urban county government*.

(4) Any license fee or tax imposed by such a city *or urban county government* upon any insurance company other than those specified in subsections (2) and (3) shall be based upon a percentage of the premiums received by such company within the preceding calendar year on risks located within the corporate limits of the city *or urban county government* on those classes of business which such company is authorized to transact, less all premiums returned to policyholders, Provided, however, That any license fee or tax imposed upon premium receipts on a percentage basis shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the Workmen's Compensation Act.

(5) Any city or urban county government which imposes a license fee or tax as authorized by this section shall, by ordinance, provide for a collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than ten percent of the fee or tax collected by the company or agent and remitted to the city or urban county government. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsections (1), (2), (3) or (4) of this section, together with the collection fee

herein may be rounded off to the nearest dollar amount.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(7) Upon written request of the legislative body of any city or urban county government, the department of insurance shall examine the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) [(5)] The license fees or taxes provided for by subsections (2), (3) and (4) of this section shall be due at the beginning of the tax year. The city *or urban county government* may collect a fee of five dollars ($5.00) from any company whose fee or tax on the percentage of premium basis is less than five dollars ($5.00).

HB 129, AN ACT relating to motor vehicle reparations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him;

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means *any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five miles beyond the said limits of any municipality* [:

(a) A vehicle of a kind required to be registered under KRS Chapter 186].

(8) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(9) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(10) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(11) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(12) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(13) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(14) A "User" means a person who *resides in a household in which any person owns or maintains a motor vehicle* [is a basic reparation insured or would be a basic reparation insured if such person had not rejected the limitations upon his tort rights as provided in KRS 304.39-060(4)].

(15) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(16) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Section 2. KRS 304.39-050 is amended to read as follows:

(1) The basic reparation insurance applicable to bodily injury to which this subtitle applies is the security covering the vehicle occupied by the injured person at the time of the accident or, if the injured person is a pedestrian, the security covering the vehicle which struck such pedestrian. If the reparation obligor providing such insurance fails to make payment for loss within thirty (30) days after receipt of reasonable proof of the fact and the amount of loss sustained, the injured person shall be entitled to payment under any contract of basic reparation insurance under which he is a basic reparation insured and the insurer making such payments shall be entitled to full reimbursement from the reparation obligor providing the security covering the vehicle. A pedestrian, as used herein, means any person who is not *making "use* [an operator or user] of a motor vehicle*"* at the time his injury occurs.

(2) If there is no security covering the vehicle, any contract of basic reparation insurance under which the injured person is a basic reparation insured shall apply.

(3) No person shall recover basic reparation benefits from more than one reparation obligor as a result of the same accident, except as provided in KRS 304.39-140(4) nor in excess of ten thousand dollars ($10,000) as the result of the same accident.

Section 3. KRS 304.39-140 is amended to read as follows:

(1) On and after the effective date of this subtitle, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to provide added reparation benefits for economic loss in units of ten thousand dollars ($10,000) per person subject to the lesser of:

(a) Forty thousand dollars ($40,000) in added reparation benefits; or

(b) The limit of security provided for liability to any one (1) person in excess of the requirements of KRS 304.39-110(1)(a).

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under added reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation obligor shall be subrogated, subject to KRS 304.39-070 and 304.39-300, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under KRS 304.39-060 from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of *basic or* added reparation benefits paid to or in behalf of such injured person or persons.

(4) Basic reparation insurers shall make available upon request deductibles in the amounts of two hundred fifty dollars ($250), five hundred dollars ($500) and one thousand dollars ($1,000) from all basic reparation benefits otherwise payable, except that if two (2) or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

(5) Reparation obligors shall make available upon request to those persons who have rejected their tort limitations, in accordance with KRS 304.39-060(4), basic reparation benefits coverage and added reparation benefits.

Section 4. KRS 304.39-070 is amended to read as follows:

(1) "Secured person" means the owner, operator or occupant of a secured motor vehicle, and any other person or organization legally responsible for the acts or omissions of such owner, operator or occupant.

(2) A reparation obligor which has paid or may become obligated to pay basic reparation benefits shall be subrogated to the extent of its obligations to all of the rights of the person suffering the injury against any person or organization other than a secured person.

(3) A reparation obligor shall have the right to recover basic reparation benefits paid to or for the benefit of a person suffering the injury from the reparation obligor of a secured person as provided in this subsection, *except as provided in KRS 304.39-140(3)*. The reparation obligor shall elect to assert its claim (i) by joining as a party in an action that may be commenced by the person suffering the injury, or (ii) to reimbursement, pursuant to KRS 304.39-300, sixty (60) days after said claim has been presented to the reparation obligor of secured persons. The right to recover basic reparation benefits paid under (ii) shall be limited to those instances established as applicable by the Kentucky Insurance Arbitration Association as provided in KRS *304.39-290* [304.39.300].

(4) Any entitlement to recovery for basic or added reparation benefits paid or to be paid by the subrogee shall in no event exceed the limits of automobile bodily injury liability coverage available to the secured party after priority of entitlement as provided in this section and KRS 304.39-140(3) has been satisfied.

The Committee on Counties and Special Districts reported **HB 31** with Committee Amendment attached thereto and **HB 49** with Committee Amendments attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 31, AN ACT relating to compensation of county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 *and the county attorney. The fiscal court may provide a salary for the county attorney.*

(2) For the purposes of this section, justices of the peace and constables in all counties, shall be deemed to be county officers, and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive, from both sources. The fiscal court may also fix the number of deputies and assistants, and, the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) In the case of county officers elected by popular vote except the county attorney, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county court clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed two hundred sixty dollars ($260) per month. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; nor shall they receive any compensation for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 2. Whereas it is the desire of the General Assembly to clarify the sources of compensation for the county attorney, and whereas it was the intent of the General Assembly, by its actions during the 1976 Extraordinary Session, that the county attorney receive his salary from the state while continuing to serve as legal advisor to the county, and whereas it was the intent of the General Assembly that compensation for such legal services to the county be limited, in all but cases of exceptionally heavy workload for the county, to reimbursement for expenses, and whereas it is the desire of the General Assembly that any salary which any county attorney shall receive for legal advice to the county shall be uniform during his term of office, this Act shall take effect on January 1, 1978.

The Committee Amendment to **HB 31** is as follows:

Amend printed copy of **HB 31,** page 2, line 5, insert after the word "vote" and before the word "except" an opening bracket " [", and insert after the word "attorney" and before the comma a closing bracket, "]".

HB 48, AN ACT relating to justices of the peace.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) In counties where the members of the county fiscal court are elected by districts, the boundaries of those districts shall be drawn so that the population of each district shall be as nearly equal as is reasonably possible.

(2) The justices' districts of a county may be reapportioned at any time, but not within one hundred and twenty (120) days prior to any primary election for justice of the peace. At minimum, the justices' districts of a county shall be reapportioned within six (6) months following the official report to the states of the data from the latest census of population conducted by the United States government.

(3) To initiate a reapportionment proceeding, the county judge/executive shall publish notice of the planned reapportionment in accordance with KRS Chapter 424. Following such notice, the county

judge/executive shall, in fiscal court, appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different justices' districts, as commissioners to reapportion the county into not less than three (3) nor more than eight (8) justices' districts. The commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury a reasonable compensation for their services, fixed by the fiscal court.

(4) The commissioners shall, within sixty (60) days after their appointment, lay off the boundary lines of the districts. They shall file in the office of the county clerk a written report, showing the boundary of each district and the estimated population in each. Not later than ten (10) days after the filing of the report, any citizen of the county may file exceptions, and the district court shall fix a day not later than ten (10) days after the filing of exceptions for the trial thereof. On the trial the court shall dispose of the exceptions and, by order entered of record, establish the boundaries of the districts.

(5) Precinct lines shall be redrawn when necessary in accordance with the provisions of KRS 117.055.

(6) Any reapportionment made in accordance with the provisions of this Act shall be certified by the county judge/executive to the county clerk.

The Committee Amendment No. 1 to **HB 48** is as follows:

Amend printed copy of **HB 48,** page 2, after line 24, insert the following new section:

Section 2. Whereas, procedures for reapportioning justices districts have been repealed and there are now no statutory procedures for reapportioning such districts, an emergency is declared to exist, and this Act shall become effective upon its passage and approved by the Governor.

The Committee Amendment No. 2 to **HB 48** is as follows:

Amend printed copy of **HB 48,** page 1, line 20, insert after the word "shall," and before the word "in" the following: "within sixty (60) days,"

Motions, Petitions and Communications

Representative Adams moved that the rules be suspended to introduce and consider a Resolution. Agreed.

HR 11, A RESOLUTION of the U. S. Department of Health, Education and Welfare.

WHEREAS, in 1976 the cash receipts to Kentucky tobacco growers was $481,599,000; and

WHEREAS, in 1976 tobacco accounted for 54 percent of the total cash receipts derived from all crops grown in Kentucky; and

WHEREAS, in 1977 there were 163,000 allottments in Kentucky for growing tobacco; and

WHEREAS, the net farm income for a Kentucky farm in 1976 was $4,200; and

WHEREAS, the federal tax on tobacco in 1976 amounted to $2,487,894,000 for the nation; and

WHEREAS, the Kentucky cigarette tax was $23,527,000 in 1976; and

WHEREAS, in addition to the thousands of Kentucky farm families depending on tobacco for a major part of their income, there are 30,000 Kentuckians employed in the processing and manufacturing of tobacco; and

WHEREAS, Secretary Califano of the Department of Health, Education and Welfare is taking a position against the tobacco grower and the tobacco industry; and

WHEREAS, Secretary Califano's actions might result in major damage to Kentucky's economy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Joseph A. Califano, Jr. resign as Secretary of the Department of Health, Education and Welfare.

Section 2. That copies of this resolution be sent to the President, to Kentucky's congressional delegation, to the Secretary of Agriculture, to the Governor, and to the Commissioner of Agriculture.

Representative Adams moved the adoption of **HR 11.**

On the roll call the vote was yeas 65-Adams, W. Allen, Arnold, Bendl, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, May, McKinney, McNutt, O'Brien, Overstreet, Patrick, Pearman, Plummer, Rattliff, B. Richarson, P. Richardson, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Wells, White, Worthingon, Yates. Nays 14-Beshear, Clarke, Deskins, Donnermeyer, Hines, Johnson, Little, Mann, Marcum, Riner, Turner, Weinberg, Williams, Wright.

HR 11 was adopted.

Representative Adams moved that the vote by which **HR 11** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

The following members, having first received permission of the primary sponsors, requested that their names be added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 52,** Representative Brinkley, **HB 12;** Representative Brown, **HB 7, HB 11, HB 14, HB 70, 115, 136, 141**; Representative Davenport, **HB 143;** Representative Foster, **HB 12, HB 22, HB 83, HB 90, HB 143;** Representative Gray, **HB 12;** Representative Haering, **HB 143;** Representative Mann, **HB 100;** Representative Pearman, **HB 12;** Representative Priddy, **HB 7, HB 11, HB 70;** Representative Riner, **HB 22, HB 110, HB 143;** Representative Romines, **HB 7**., **HB 11, HB 70;** Representative R. Smith, **HB 148;** Representative Stone, **HB 12.**

Representative B. Richardson moved that the rules be suspended to grant leave of absence to all members absent on January 9, 1978. Agreed.

The Clerk announced a meeting of the Committe on Rules, Room 307, on adjournment.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 178, by Representatives Deskins and Little: AN ACT relating to fiscal courts.

HB 179, by Representatives Donnermeyer, Mann, Bennett, Blandford, Burnette, Clapp, Clarke, Davenport, DeFalaise, Dietz, Dunn, Haering, Imes, Isler, McNutt, Nett, O'Brien, Petty, Rattliff, Schmidt, Thomas, Tobin, Trevey, Van Horn, and Wright: AN ACT relating to public and medical assistance.

HB 180, by Representative Lindsay: AN ACT relating to holidays.

HB 181, by Representatives Burnette: AN ACT relating to the registration of motor vehicles.

HB 182, by Representative Imes: AN ACT relating to public projects.

HR12, by Representatives Bruce, Morris, Worthington, Arnold, Imes and Fitzgerald: A RESOLUTION relating to maleic hydrazide.

HJR 13, by Representative Benson: A JOINT RESOLUTION authorizing and directing the creation of a Special Commission on Planning Law Revision.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, January 11, 1978.

On the roll call the vote was yeas 76-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Guy, Haering, Head, Holbrook, Hurst, Isler, Johnson, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Rattliff, B. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-Blythe, Deskins, Fitzgerald, Gray, Imes, Priddy, P. Richardson, Van Horn.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 11, 1978

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representatives Blythe, Boswell, Kidd, Maynard, Richards, Stewart and Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 10, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 183, by Representatives Patrick, Dawhare, Johnson, Williams and Wright: AN ACT relating to hunting and fishing.

HB 184, by Representative B. Richardson: AN ACT relating to compensation of General Assembly employes.

HB 185, by Representatives Davenport, DeFalaise, Deskins, and Petty: AN ACT relating to carrying concealed weapons.

HB 186, by Representative Mann: AN ACT relating to sudden infant death syndrome.

HB 187, by Representative F. Smith: AN ACT relating to elections.

HB 188, by Representative Adams: AN ACT relating to disaster and emergency services.

HB 189, by Representative Benson: AN ACT relating to prostitution.

HB 190, by Representative Jones: AN ACT relating to administrative regulations.

HB 191, by Representatives Yates and Romines: AN ACT relating to individual income tax.

HB 192, by Representative Gay: AN ACT relating to public accommodations.

HB 193, by Representatives Gay, Patrick, Noe, F. Smith, McKinney, and White: AN ACT relating to hazardous position employment for purposes of retirement.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HR 12.**

Banking and Insurance: **HB 172.**

Cities: **HB 173.**

Counties and Special Districts: **HB 178.**

Elections and Constitutional Amendments: **HB 174, HB 177, HR 10.**

Health and Welfare: **HB 179.**

Judiciary— Courts: **SB 64.**

Public Utilities and Transportation: **HB 181.**

State Government: **HB 171, HB 175, HB 176, HB 180, HB 182, HR 13, HR 8.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 145, HB 119, HB 55, HB 156, HJR 5.**

Judiciary-Courts: **HB 49, HB 69.**

Banking and Insurance: **HB 151, HB 4, HB 37.**

Health and Welfare: **HB 16, HB 17, HB 21, HB 98, HB 99, HB 102.**

Counties and Special Districts: **HB 91.**

Cities: **HB 74, HB 87.**

Judiciary-Statutes: **HB 160.**

Report of Committees

The Committee on Rules reported **HB 22** has been posted for passage in Orders of the Day, January 12, 1978.

The Committee on Judiciary-Statutes reported **HB 126** and **HB 155** with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to pretrial release and investigative services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.515 is amended to read as follows:

(1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pre-trial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550 and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.

(2) The Supreme Court may by appropriate rule or order establish and provide for such pre-trial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120 [and the costs thereof shall be deemed a necessary governmental expense payable from the state treasury].

HB 155, AN ACT relating to sexual exploitation of children.

WHEREAS, there has been a proliferation of exploitation of children as subjects in sexual performances; and

WHEREAS, parents and other adults expose children to physical, psychological and moral damage by promoting performances of sexual conduct by these children; and

WHEREAS, the care of children is a sacred trust and must not be abused by those who seek to profit through a commercial network based upon the exploitation of children; and

WHEREAS, the public policy of the Commonwealth demands the protection of children from exploitation through sexual performances; and

WHEREAS, this protection is within the undoubted police power of the Commonwealth; and

WHEREAS, the production of so-called "child pornography" entails a wholly intolerable exploitation of children; and

WHEREAS, the production of this material can be stopped only by prohibiting its distribution and thus eliminating its market; and

WHEREAS, the United States Supreme Court has held that a law with an incidental effect on freedom of expression does not violate the First Amendment to the United States Constitution if it is within the constitutional power of the government and furthers an important and substantial governmental interest unrelated to the suppression of free expression, and if the incidental restriction of alleged First Amendment freedom is no greater than is essential to that interest; and

WHEREAS, the within Act meets the foregoing test;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 529.030 is amended to read as follows:

(1) A person is guilty of promoting prostitution in the first degree when he knowingly*:*

(a) Advances prostitution by compelling a person by force or intimidation to engage in prostitution or profits from such coercive conduct by another*; or*

(b) Advances or profits from prostitution of a person less than sixteen (16) years old.

(2) Promoting prostitution in the first degree is a Class C felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Sexual performance" means any performance or part thereof which includes sexual conduct by a minor.

(2) "Sexual conduct" means:

(a) Acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse or deviate sexual intercourse, actual or simulated; or

(b) Physical contact with, or lewd exhibition of, the genitals; or

(c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure, in a patently offensive way and in a manner calculated to appeal to prurient interest, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed or to be portrayed in matter of a private, family nature not intended for distribution outside the family, or in matter of a bona fide, serious artistic nature.

(3) "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience.

(4) "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

(5) "Matter" has the same definition as in KRS 531.010.

(6) "Distribute" has the same definition as in KRS 531.010.

SECTION 3. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.

(2) Use of a minor in a sexual performance is:

(a) A Class D felony if the minor so used is less than eighteen (18) years old at the time of the offense;

(b) A Class C felony if the minor so used is less than sixteen (16) years old at the time of the offense;

(c) A Class B felony if the minor so used incurs physical injury thereby.

SECTION 4. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

(2) Promoting a sexual performance by a minor is:

(a) A Class D felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time of the offense;

(b) A Class C felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time of the offense;

(c) A Class B felony if the minor involved in the sexual performance incurs physical injury thereby.

SECTION 5. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
In any prosecution under this Act the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
For purposes of this Act, any person who appears to be under the age of eighteen (18), or under the age of sixteen (16), shall be rebuttably presumed to be under the age of eighteen (18), or under the age of sixteen (16), as the case may be.

SECTION 7. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:
(a) Sends or causes to be sent into this state for sale or distribution; or
(b) Brings or causes to be brought into this state for sale or distribution; or
(c) In this state, he:
1. Exhibits for profit or gain, or
2. Distributes, or
3. Offers to distribute, or
4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.
(2) Any person who has in his possession more than one unit of material coming within the provisions of this Act shall be rebuttably presumed to have such material in his possession with the intent to distribute it.
(3) Distribution of matter portraying a sexual performance by a minor is a Class A misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this Act, in which case it shall be a Class D felony.

SECTION 8. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
(1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portraying a sexual performance by a minor, or he denies or threatens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.
(2) Promoting sale of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense, a Class D felony for the second offense, and a Class C felony for each subsequent offense.

SECTION 9. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
(1) Whenever a person is tried for distribution of matter portraying a sexual performance by a minor, the jury, or the court, if a jury trial is waived, shall render a general verdict, and shall also render a special verdict as to whether the matter named in the charge portrays a sexual performance by a minor. The special verdict or findings on the issue of whether or not the matter portrays a sexual performance by a minor may be: "We find the -------------- (title or description of matter) to portray a sexual performance by a minor," or, "We find the -------------- (title or description of matter) not to portray a sexual performance by a minor," as they may find each item to portray or not to portray a sexual performance by a minor.
(2) Upon the conviction of the accused, after exhaustion by the accused of all state and federal remedies, and after the expiration of a period of time equal to the maximum period for which the accused may be imprisoned for violation of this Act, the court may order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the attorney general, commonwealth's attorney, county attorney, city attorney or their authorized assistants, or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.
(3) The Prosecutors Advisory Council may promulgate rules and regulations to carry out the provisions of subsection (2) of this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:
(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class A misdemeanor.

SECTION 11. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of using minors to distribute material portraying a sexual performance by a minor when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

(a) Hires; or
(b) Employs; or
(c) Uses,

a minor to do or assist in doing any of the acts prohibited by Section 7 of this Act.

(2) Using minors to distribute material portraying a sexual performance by a minor is a Class D felony unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class C felony.

SECTION 12. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

The Committee Substitute for **HB 155** is as follows:

HB 155, AN ACT relating to sexual exploitation of children.

WHEREAS, there has been a proliferation of exploitation of children as subjects in sexual performances; and

WHEREAS, parents and other adults expose children to physical, psychological and moral damage by promoting performances of sexual conduct by these children; and

WHEREAS, the care of children is a sacred trust and must not be abused by those who seek to profit through a commercial network based upon the exploitation of children; and

WHEREAS, the public policy of the Commonwealth demands the protection of children from exploitation through sexual performances; and

WHEREAS, this protection is within the undoubted police power of the Commonwealth; and

WHEREAS, the production of so-called "child pornography" entails a wholly intolerable exploitation of children; and

WHEREAS, the production of this material can be stopped only by prohibiting its distribution and thus eliminating its market; and

WHEREAS, the United States Supreme Court has held that a law with an incidental effect on freedom of expression does not violate the First Amendment to the United States Constitution if it is within the constitutional power of the government and furthers an important and substantial governmental interest unrelated to the suppression of free expression, and if the incidental restriction of alleged First Amendment freedom is no greater than is essential to that interest; and

WHEREAS, the within Act meets the foregoing test;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 529.030 is amended to read as follows:

(1) A person is guilty of promoting prostitution in the first degree when he knowingly*:*

(a) Advances prostitution by compelling a person by force or intimidation to engage in prostitution or profits from such coercive conduct by another*; or*

(b) Advances or profits from prostitution of a person less than sixteen (16) years old.

(2) Promoting prostitution in the first degree is a Class C felony.

SECTION 2. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means:

(a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and

(b) The matter depicts or describes the sexual conduct by a minor in a patently offensive way; and

(c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(4) "Sexual conduct by a minor" means:

(a) Acts of masturbation, homosexuality, lesbianism, beastiality, sexual intercourse, or deviant sexual intercourse, actual or simulated; or

(b) Physical contact with, or obscene exhibition of the genitals; or

(c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or

(d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family.

(5) "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience.

(6) "Sexual performance" means any performance or part thereof which includes sexual conduct by a minor.

(7) "Promote" means to prepare, publish, print, procure or manufacture, or to offer or agree to do the same.

SECTION 3. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of the use of a minor in a sexual performance if he employs, consents to, authorizes or induces a minor to engage in a sexual performance.

(2) Use of a minor in a sexual performance is:

(a) A Class D felony if the minor so used is less than eighteen (18) years old at the time of the offense;

(b) A Class C felony if the minor so used is less than sixteen (16) years old at the time of the offense;

(c) A Class B felony if the minor so used incurs physical injury thereby.

SECTION 4. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of promoting a sexual performance by a minor when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a minor.

(2) Promoting a sexual performance by a minor is:

(a) A Class D felony if the minor involved in the sexual performance is less than eighteen (18) years old at the time of the offense;

(b) A Class C felony if the minor involved in the sexual performance is less than sixteen (16) years old at the time of the offense;

(c) A Class B felony if the minor involved in the sexual performance incurs physical injury thereby.

SECTION 5. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this Act, any person who appears to be under the age of eighteen (18), or under the age of sixteen (16), shall be presumed to be under the age of eighteen (18), or under the age of sixteen (16), as the case may be.

(2) In any prosecution under this Act the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.

(3) The presumption raised in subsection (1) of this section may be rebutted by any competent evidence.

SECTION 6. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Exhibits for profit or gain; or
2. Distributes; or
3. Offers to distribute; or
4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his possession more than one (1) unit of material coming within the provision of this Act shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class A misdemeanor unless the defendant has in his possession more than one (1) unit of material coming within the provisions of this Act, in which case it shall be a Class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of promoting sale of material portraying a sexual performance by a minor when he knowingly, as a condition to a sale, allocation, consignment, or delivery for resale of any paper, magazine, book, periodical, publication or other merchandise, requires that the purchaser or consignee receive any matter portaying a sexual performance by a minor, or he denies or threathens to deny a franchise, revokes or threatens to revoke, or imposes any penalty, financial or otherwise, by reason of the failure of any person to accept such matter, or by reason of the return of such matter.

(2) Promoting sale of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense, a Class D felony for the second offense, and a Class C felony for each subsequent offense.

Section 8. KRS 531.080 is amended to read as follows:

(1) The jury, or the court, if a jury trial is waived, shall render a general verdict, and shall also render a special verdict as to whether the matter named in the charge is obscene. The special verdict or findings on the issue of obscenity may be: "We find the .... (title or description of matter) to be obscene," or, "We find the .... (title or description of matter) not to be obscene," as they may find each item is or is not obscene.

(2) Whenever a person is tried for distribution of matter portraying a sexual performance by a minor, the jury, or the court, if a jury trial is waived, shall render a special verdict as to whether the matter named in the charge portrays a sexual performance by a minor. The special verdict or findings on the issue of whether or not the matter portrays a sexual performance by a minor may be: "We find the.....(title or description of matter) to portray a sexual performance by a minor," or, "We find the.....(title or description of matter) not to portray a sexual performance by a minor," as they may find each item to portray or not to portray a sexual performance by a minor.

(3) [(2)] Upon the conviction of the accused, the court may, when the conviction becomes final, order any matter or advertisement, in respect whereof the accused stands convicted, and which remains in the possession or under the control of the attorney general, commonwealth's attorney, county attorney, city attorney or their authorized assistants, or any law enforcement agency, to be destroyed, and the court may cause to be destroyed any such material in its possession or under its control.

SECTION 9. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of advertising material portraying a sexual performance by a minor when, having knowledge of its content and character thereof, he writes or creates advertising or solicits anyone to publish such advertising or otherwise promotes the sale or distribution of matter portraying a sexual performance by a minor.

(2) Advertising material portraying a sexual performance by a minor is a Class A misdemeanor.

SECTION 10. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of using minors to distribute material portraying a sexual performance by a minor when knowing a person to be a minor, or having possession of such facts that he should reasonably know such person is a minor, and knowing of the content and character of the material, he knowingly:

(a) Hires; or
(b) Employs; or
(c) Uses,

a minor to do or assist in doing any of the acts prohibited by Section 6 of this Act.

(2) Using minors to distribute material portraying a sexual performance by a minor is a Class D felony unless the defendant has previously been convicted of violation of this section or KRS 531.030, in which case it shall be a Class C felony.

Section 11. KRS 530.070 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor when:

(a) Acting other than as a retail licensee, he knowingly sells, gives, purchases or procures any alcoholic or malt beverage in any form to or for a minor. The defendant may prove in exculpation that the sale was induced by the use of false, fraudulent, or altered identification papers or other documents and that the appearance and character of the purchaser were such that his age could not have been ascertained by any other means and that the purchaser's appearance and character indicated strongly that he was of legal age to purchase alcoholic beverages. This subsection does not apply to a parent or guardian of the minor; or

(b) He knowingly induces, assists, or causes a minor to engage in illegal sexual activity *except those offenses involving minors in KRS Chapter 531 and KRS 529.040(1)(b),* illegal controlled substances activity, illegal gambling activity or any other criminal activity; or

(c) He knowingly induces, assists or causes a minor to become a habitual truant; or

(d) He persistently and knowingly induces, assists or causes a minor to disobey his parent or guardian.

(2) Unlawful transaction with a minor is a Class A misdemeanor.

Section 12. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice *except as provided in subsection (6) of this section*;

(d) In the exhibition of any such child when insane, or idiotic; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) The juvenile session of district court shall have exclusive jurisdiction of persons charged with offenses involving minors classified as misdemeanors in KRS Chapter 531. The circuit court shall have exclusive jurisdiction of persons charged with offenses involving minors classified as felonies in KRS Chapter 531 and KRS 529.040(1)(b).

(7) [(6)] Any person, over whom the court has jurisdiction under subsections (3), (4), [or] (5) *or (6)* of this section, shall be entitled to a trial by jury.

(8) [(7)] Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

(9) [(8)] Actions brought under subsection (1)(a) of this section shall be considered to be delinquency actions.
(10) [(9)] Actions brought under subsection (1)(b) and (c) of this section shall be considered to be status actions.
(11) [(10)] Actions brought under subsection (1)(d) of this section shall be considered to be dependency actions.

The Committee on Labor reported **HB 11** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:
A doctor of chiropractic, licensed to practice under the provisions of KRS Chapter 312, shall have his services to employes covered by the workmen's compensation law paid for under the workmen's compensation provisions of KRS Chapter 342. An employe claiming benefits under the provisions of KRS Chapter 342 shall have the right to choose the services of a licensed doctor of chiropractic.

Calendar

HB 103, HB 35, HB 100, HB 5, HB 129, HB 31, and **HB 48** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that Representative Noe's name be withdrawn as co-sponsor of **HB 145.** Agreed.

Representative Riner moved the adoption of the following Legislative Citation No. 3:

The House of Representatives hereby congratulates Anita Bryant Green for her indomitable fortitude and exceptional stand taken during a great moral crisis and controversial issue. Her outstanding leadership is an overwhelming demonstration of her implicit faith in God, love for country and deep concern for family life. Her commitment to "Save our Children" is a memorable tribute to her great Christian belief. The perpetuation of her high ideals and civic contribution to her community, state and nation are admirable. (Sponsored by Representative Riner)

Agreed.

Representative Riner moved the adoption of the following Legislative Citation No. 4:

The House of Representatives hereby commends Lieutenant Clebe McClory for his undaunted courage and exceptional leadership amid adverse circumstances during his service as a marine in the Vietnam War. The great physicl loss of an eye and arm did not deter his love for Country and dedication of service to all mankind. We salute you and your Wife for your unselfish service in spreading the gospel of Jesus Christ in military installations, jails, schools and churches throughout the United States. (Sponsored by Representative Riner)

Agreed.

Representative Romines requested that he be recorded as voting "yea"on **HR 11.**

Representative Guy moved the adoption of the following Legislative Citation No. 8:

The House of Representatives hereby commends Bernie Woodward of Scottsville, a member of the Scottsville Fire Department for his heroic act in rescuing Mrs. Linda Marshall, her son Richard and Billy Joe Forsheefrom a flaming house. Bernie was enroute to Bowling Green when he discovered the burning house. He entered the house three times and crawled through dense smoke to rescue them. Bernie made the supreme sacrifice for others. (Sponsored by Representative Guy)

Agreed.

Representative Cyrus moved the adoption of the following Legislative Citation No. 9:

The House of Representatives hereby congratulates the Greenup County High School Cheerleaders Squad for winning the Universal Cheerleaders Association Championship Award for 1977-78. We applaud the talent and efforts of Brenda Mays, Lisa Clary, Cindy Pratt, Jan Pauley, Lillie Clark, Joy Elkins, Marcia Phillips, Nancy Adkins, Christy Cade, Michelle Glass, Jodi Stevens, Kelly Riffe and Sonya Savagr. We commend the unselfish efforts of Mrs. Candy Berry, Advisor and extend best wishes for 1978-79. (Sponsored by Representative Cyrus)

Agreed.

Representative Kleier moved that **HB 157** be reassigned to the Committee on State Government. Agreed.

Representative Clarke moved that **HB 110** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative B. Richardson moved that all properly filed and processed requests for co-sponsors of Bills and Resolutions be approved. Agreed.

The Clerk announced the Committee on Rules will meet in Room 307 on adjournment.

Having first received permission of the primary sponsors, the following members filed requests with the Clerk to have their names added as co-sponsors of Bills and Resolutions: Representative Adams, **HB 143;** Representative Burch, **HB 104;** Representative Crupper, **HB 12, HB 23;** Representative Donnermeyer, **HB 142, HB 143;** Representative Guenther, **HB 22, HB 71, HB 156;** Representative Guy, **HR 12;** Representative Holbrook, **HB 155;** Representative Johnson, **HB 160, HB 146;** Representative Little, **HB 112;** Representative McKinney, **HB 179;** Representative P. Richardson, **HB 12, HB 23;** Representative Riner, **HB 83, HB 138, HB 148, HB 166, HR 7;** Representative Ratliff, **HB 12, HB 83, HB 124;** Representative Stone, **HB 148;** Representative Weinberg, **HB 179;** Representative Wilborn, **HR 12.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:30 p.m., Thursday, January 12, 1978.

On the roll call the vote was yeas 66-Adams, J. Allen, W. Allen, Arnold, Beshear, Blandford, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFailaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Jones, Kenton, Kleier, Layman, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Rattliff , Riner, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Weinberg, Wilborn, Williams, Worthington, Yates. Nays 14— Brinkley, Crupper, Fitzgerald,Gray, Guenthner, Imes, Lindsay, Patrick, Priddy, P. Richardson, Robinson, Schmidt, Van Horn, Wright.

The motion to adjourn was adopted.

THURSDAY, JANUARY 12, 1978

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representatives Blythe, Boatwright, Burch, Burnette, Kidd and Maynard.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 11, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 194, by Representative Burch: AN ACT relating to taxicabs.

HB 195, by Representative Lindsay: AN ACT relating to death.

HB 196, by Representative Van Horn: AN ACT relating to construction of statutes.

HB 197, by Representatives McNutt, Benson, Brinkley, Craddock, Jones, List and Richards: AN ACT relating to bills and prefiled bills.

HB 198, by Representatives Mann, Donnermeyer and DeFalaise: AN ACT relating to visitation rights of parents in health facilities.

HB 199, by Representative Imes: AN ACT relating to the Legislative Research Commission.

HB 200, by Representatives F. Smith and B. Richardson: AN ACT relating to public roads and highways.

HB 201, by Representatives Carpenter, Foster, Adams, Deskins and LeMaster: AN ACT relating to motor vehicle accident reports.

HB 202, by Representative Hancock: AN ACT relating to retirement benefits.

HB 203, by Representative Gay: AN ACT relating to wells.

HB 204, by Representative Gay: AN ACT relating to education.

HR 14, by Representatives Morris and Bruce: A RESOLUTION endorsing the Governor's efforts to obtain a pilot gasohol project for Kentucky.

HJR 15, by Representative B. Richardson: A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 183.**

Appropriations and Revenue: **HB 191.**

Elections and Constitutional Amendments: **HB 187.**

Health and Welfare: **HB 186, HB 192.**

Judiciary-Statutes: **HB 185, HB 189.**

State Government: **HB 184, HB 188, HB 190, HB 193.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Highways and Traffic Safety: **HB 57.**

Report of Committees

The Committee on Agriculture and Natural Resources reported **HB 12** and **HR 12** with the expression of opinion that the same should pass. Read at length for the first itme and ordered placed in the Calendar.

HB 12, AN ACT relating to the sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850; [and]

(11) Tombstones and other memorial grave markers*; and* [.]

(12) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities.

HR 12, A RESOLUTION relating to maleic hydrazide.

WHEREAS, the U.S. Environmental Protection Agency has taken steps which could result in a prohibition against the use of maleic hydrazide or MH, an active ingredient used for tobacco sucker control; and

WHEREAS, the cancellation of MH would place in jeopardy a dependable supply of high quality tobacco to tobacco products companies; and

WHEREAS, the cost of labor, even if available, to hand sucker tobacco would be prohibitive at present crop values; and

WHEREAS, the loss to Kentucky tobacco farmers could be as much as $76 million annually without MH; and

WHEREAS, the cancellation of MH would generally disrupt the tobacco industry in Kentucky and the country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of Kentucky's Congressional delegation work for the continued registration of MH.

Section 2. That the members of the delegation inform the Environmental Protection Agency what effect cancellation of MH would have on the economy and a very important crop and industry in Kentucky.

Section 3. That a copy of this resolution be sent to each member of Kentucky's Congressional delegation and the Environmental Protection Agency.

The Committee on Appropriations and Revenue reported **HB 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 83, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the

occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850; and

(11) Tombstones and other memorial grave markers;

(12) Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4).

Section 2. KRS 139.500 is amended to read as follows:

(1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are required to be included in the measure of the tax levied under KRS 139.200 is not subject to the use tax.

(2) The storage, use, or other consumption in this state of gasoline or special fuels on which the tax under KRS chapter 138 has been paid and which is not subject to refund under KRS 138.341, [138.344,] 279.200, or 279.530 shall not be subject to the use tax.

The Committee on Elections and Constitutional Amendments reported **HB 125** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 125, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.100 is amended to read as follows:

The provisions of KRS 121.015, 121.100 to 121.200, and 121.990 shall apply to all candidates running for public office, including urban-county governments, in any primary or general election, or in any special election to fill a vacancy, except those candidates running for federal office, boards of education, county and local district offices filled by less than a countywide constituency, *conservation district offices* and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 121.190 shall apply to all candidates for public office.

Section 2. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report.

(2) Each campaign treasurer of a candidate or campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure.

(a) Reports of all candidates and their campaign committee shall be made:

1. On the thirty-second day preceding an election, including all previous contributions and expenditures.
2. On the twelfth day preceding the date of the election.
3. Within thirty (30) days after the election.

4. Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. [When the net proceeds of a fund raising event exceed the sum of $1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased.] Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement, and every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures. Subsequent supplemental statements shall be filed quarterly thereafter until the account shows an unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(5) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(6) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

(7) No candidate as defined in this section, nor any committee which has been organized in whole or in part to further the candidacy of such person, shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person for any other public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member.

Section 3. KRS 121.220 is amended to read as follows:

(1) Each candidate and each committee formed to advocate or oppose a constitutional amendment or public question shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate or committee. The candidate or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate or committee participates. Deputy campaign treasurers may make deposits in and make expenditures from secondary depositories. Only a bank authorized to transact business in Kentucky may be designated as a campaign depository. The candidate or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited prior to the end of the fifth business day following their receipt in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)". A statement showing the full name, address and occupation of each contributor *of more than one hundred dollars ($100)* shall be deposited together with a statement of the amount received. Cash contributions shall be accompanied by the same receipt form. Such statement shall be in triplicate upon a form prescribed by the registry, one (1) copy to be retained by the campaign depository, one (1) copy to be filed by the campaign treasurer in the campaign report to the registry, and one (1) copy to be retained by the campaign treasurer. Statement shall be certified as correct by the campaign treasurer.

The Committee on State Government reported **HB 64, HB 90** with Committee Amendment attached thereto, and **HB 142** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 64, AN ACT relating to the coal severance economic aid fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.330 is amended to read as follows:

(1) There is hereby created a coal severance economic aid fund, hereinafter referred to as the "fund," in the state treasury to be administered by the executive department for finance and administration. The fund may receive state appropriations, gifts, grants and federal funds.

(2) Money in the fund shall be used only for capital projects in "coal producing counties" as defined in subsection (3) of this section, consisting of general construction, renovation, maintenance, improvements, property acquisition, major items of equipment, and the costs relating to architectural design, construction and supervision of such capital projects, including, but not limited to, reclamation and industrial development projects and loans and grants in aid for capital purposes, KRS 45.040 notwithstanding, excluding, however, consumable and other usable supplies; appropriations having been made by other acts of the general assembly for road and school purposes in such counties, the fund shall not be used directly or indirectly for the acquisition, construction, reconstruction, renovation or maintenance of any school or school property or any road, street, highway or bridge.

(3) As used in this section, "coal producing county" shall mean a county in which coal was severed within the meaning of Chapter 143 of the Kentucky Revised Statutes and upon which severance the tax applicable thereto was reported and remitted prior to January 1, 1976.

(4) There is hereby created a coal severance economic aid board, hereinafter referred to as "board," in each coal producing county, to be comprised of the county judge/executive, the mayor *or chairman of the board of trustees* of the most populous city within said county, one member selected by the board or boards of education located within said county, and two members at large who are residents of said county to be appointed by the governor. *In coal producing counties in which there is no incorporated city and, therefore, no mayor or chairman of the board of trustees, one (1) member of the board shall be appointed by fiscal court.* The terms of membership shall be for four years commencing January 1, 1976. Vacancies occurring in the membership shall be filled for the remainder of the unexpired term. The county judge/executive shall serve as chairman and the mayor *or chairman of the board of trustees* shall serve as vice-chairman of the board. *If there is no mayor or chairman of the board of trustees on the board, the board shall select the vice chairman from among its membership.* In counties in which there are two (2) or more school boards, in the event an appointment shall not be made within thirty (30) days after June 19, 1976, or within thirty (30) days after a vacancy occurs during the term of such member or his successor, the governor shall make such appointment.

(5) By August 15, 1976 for fiscal year 1976-77, and by August 15, 1977 for fiscal year 1977-78, the commissioner of the executive department for finance and administration shall notify the chairman of each board of the total amount in the fund available for expenditure within the applicable coal producing county. The amounts shall be calculated in accordance with the formula provided in Acts 1976, Chapter 338, Section 3.

(6) Each board shall conduct meetings open to the general public for the purpose of soliciting recommendations for capital projects within the county and shall cause notice of the date, place, time and purpose of such meetings to be published once each week for three (3) consecutive weeks in the newspaper of largest general circulation in the county. Expenses incurred for meetings and for such publication shall be paid from the fund upon the warrant by the commissioner of the executive department for finance and administration.

(7) Within thirty (30) days after each such meeting, each board shall notify the commissioner of the executive department for finance and administration, of the capital project or projects, in the order of their respective priority, desired for the coal producing county.

(8) The executive department for finance and administration shall cause cost estimates to be prepared relative to the proposed capital projects and shall advise the chairman of each board of its conclusions with respect thereto as soon as practicable.

(9) The final selection of the capital project or projects to be undertaken in any coal producing county shall be made by its respective board; provided, however, the executive department for finance and administration shall refuse to proceed on any proposed capital project if in the judgment of the commissioner the project cannot be completed at a total cost within the county's allocable share of the fund available for expenditure.

(10) Upon approval of each capital project as provided in subsection (8) of this section, the executive department for finance and administration shall cause to be prepared all plans, specifications and designs, shall

advertise for bids and award any contract or contracts, all in accordance with KRS Chapters 45 and 56.

(11) Upon the award of any contract to provide capital improvement and the acquisition or contract of purchase of any real property required by such project, a grant in aid of the projected total cost thereof shall be established to the credit of the appropriate political subdivision, agency or special district or combination thereof, including entities created by or parties to interlocal agreements, and title to any such real property and to the capital project shall be held by the commonwealth until completion and final acceptance as certified by the commissioner of the executive department for finance and administration, at which time title thereto shall vest by conveyance or otherwise in the designated beneficiary of such grant in aid to be used for public purposes. Should the capital project cease at any time to be used for such public purposes, title shall revert to and vest in the commonwealth of Kentucky. No encumbrance of any kind shall be placed upon the capital project or real property and such restriction shall be recited in any deed or other conveyance made between the parties.

(12) Disbursements from the fund shall be made by the state treasurer upon the warrant of the commissioner of the executive department for finance and administration.

HB 90, AN ACT relating to sale of prison made goods.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.240 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no goods, wares or merchandise manufactured or produced wholly or in part by convicts or prisoners, except convicts or prisoners on parole or probation, in this state or in any other state, shall be sold or offered for sale on the open market in this state.

(2) Nothing in this section is intended to forbid the sale, exchange or distribution of such goods to any institution supported wholly by funds derived from public taxation and operated under the supervision of the United States or of this state or any other state or any political subdivision thereof, or to forbid this state from manufacturing automobile tags, road signs, and any other goods that the state has to furnish to any of its institutions or to any branches of its government in its administrative capacity, *or to sell goods manufactured within the institution at state operated gift shops.*

The Committee Amendment to **HB 90** is as follows:

Amend printed copy of **HB 90,** page 1, line 18, following the word "*to*", by deleting the word "*sell*", and inserting in lieu thereof, the following words "*forbid the sale of*".

HB 142, AN ACT relating to claims against the Commonwealth and its employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.070 is amended to read as follows:

(1) A board of claims, composed of the members of the crime victims compensation board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its departments or agencies, or any of its officers, agents or employes while acting within the scope of their employment by the Commonwealth or any of its departments or agencies; Provided, however, regardless of any provision of law to the contrary, the Commonwealth, its departments and agencies, and its officers, agents and employes, while acting within the scope of their employment by the Commonwealth or any of its departments or agencies, shall not be liable for pain or suffering, and compensation shall not be allowed, awarded, or paid for pain or suffering. Except as herein provided the board shall be independent of all agencies and departments of the Commonwealth except as provided in KRS 44.070 to 44.160.

(2) The board shall be composed of the members of the crime victims compensation board. The members shall not be entitled to additional compensation for their services on the board of claims.

(3) The governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the governor. No member shall, at the same time, serve as chairman of the crime victims compensation board and as chairman of the board of claims.

(4) The employes of the crime victims compensation board, without additional compensation, shall be ex-officio employes of the board of claims.

(5) Regardless of any provision of law to the contrary, the jurisdiction of the board is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed *fifty* [twenty] thousand dollars *($50,000)* [($20,000)], exclusive of interest and costs.

(6) The governor shall appoint the necessary number of hearing officers each of whom shall be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years. These officers, upon the direction of the chairman or the board shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by the chairman or the board except that such hearing officers shall not render final decision, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the board, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(7) The board may at any time recommend the removal of any hearing officer upon filing with the governor a full written statement of its reasons for such removal.

Section 2. KRS 12.214 is hereby repealed.

The Committee on Rules reported **HB 31** with Committee Amendment attached thereto, **HB 35, HB 48** with Committee Amendments attached thereto, **HB 100, HB 103** with Committee Amendment attached thereto, and **HB 129** have been posted for passage in Orders of the Day, January 13, 1978.

The Committee on Rules reported **HB 110** was recommitted to the Committee on Appropriations and Revenue by a motion of the floor on January 11,1978.

Calendar

HB 126, HB 155, and **HB 11** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Brown filed Floor Amendment No. 1 to **HB 56.**

Representative B. Richardson filed Floor Amendment No. 1 to **HB 103.**

Representative Morris moved that a call of the roll be taken to show co-sponsors of **HR 14.**

The following members voted to co-sponsor **HR 14:** Adams, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Carpenter, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, LeMaster, Lindsay, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Williams, Worthington, Yates.

Representative Carpenter moved the adoption of the following Legislative Citation No. 11.

The House of Representatives hereby honors the memory of the late William J. Carey, M.D. of Woodford County. His dedication, devotion, and unselfish services to our youth and citizens are a great tribute to his memory. Dr. Carey made an outstanding contribution as a physician and member of the Woodford County Board of Education. (Sponsored by Representative Carpenter)

Agreed.

Representative Wilborn moved the adoption of the following Legislative Citation No. 1:

The House of Representatives hereby congratulates the Shelby County High School Varsity Squad Cheerleaders and their excellent Coach, Mrs. Joy Lynn Quire. The Cheerleaders were acclaimed winners of the Grant Championship of the Cheerleaders Association. The winners were Jennifer Imel, Karen Ruble, Janie Biagi, Sheri Goodridge, Ann Auherman, Sally Borders, Lisa Ratcliffe and Monica Fleming. Your team effort and high level of competition and competency were quite evident. You can take pride in the distinction and recognition you bestowed upon your school. (Sponsored by Representative Wilborn)

Agreed.

Representative Wilborn moved the adoption of the following Legislative Citation No. 2:

The House of Representatives hereby commends Miss Monica Fleming for her outstanding achievement as Miss Teenage Cheerleader U.S.A. in the individual competition. Your triumphant performance is a vivid portrayal of your hard work, dedication and love for your school and community. You are an example of why we should be proud of the youth of our state and nation. (Sponsored by Representative Wilborn)

Agreed.

Representative Kleier moved that **HB 62** be taken from the Committee on Health and Welfare and reassigned to the Committee on State Government. Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 6.

The House of Representatives hereby congratulates Coach Raymond L. Webb and his excellent football team of Frankfort High School for their fine record of 10-3. The dedication, team effort, high level of competition and competency are very creditable and impressive. The championship of the Mountain Laurel Bowl Tournament and Class A Runner-Up reflect hard work and superior performance. We commend Coah Webb for the high distinction accorded him as Central Kentucky Conference Coach of the Year and the Courier-Journal Coach of the Year. During your nine years as Frankfort High School Coach your fine record and Championship have brought great pride and recognition to your school, community and state. (Sponsored by Representative Hancock)

Agreed.

Representative B. Richardson moved that the rules be suspended to allow all properly filed and processed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests, in accordance with the above motion, to have their names added as co-sponsors of Bills and Resolutions: Representative Bendl, **HB 155;** Representative Boswell, **HR 12, HB 160, HB 179;** Representative Crupper, **HR 12;** Representative Dunn, **HB 56;** Representative Holbrook, **HB 71;** Representative Johnson, **HB 143;** Representative List, **HB 122, HB 110, HB 143, HB 155, HR 12;** Representative Pearman, **HR 12;** Representative P. Richardson, **HR 12;** Representative Riner, **HB 179.**

Orders of the Day

HB 22 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the following Floor Amendment No. 1 to **HB 22:**

Amend printed copy of **HB 22,** page 3, line 16, by deleting the word "*sixty*", and inserting in lieu thereof the word "*thirty*";

and on page 3, line 17,by deleting the number "*(60)*", and inserting in lieu thereof the number "*(30)*".

On the roll call the vote was yeas 43-J. Allen, W. Allen, Blandford, Boswell, Brinkley, Bruce, Carpenter, Clapp, Craddock, Davenport, Dietz, Fitzgerald, Foster, Gay, Guy, Hancock, Head, Hurst, Imes, Isler, Jones, Layman, LeMaster, Lindsay, List, McBee, McNutt, Morris, Noe, Plummer, B. Richardson, P. Richardson, Sale, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, White, Wilborn, Worthington, Yates. Nays 44-Adams, Arnold, Bendl, Bennett, Beshear, Brown, Clarke, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dunn, Gray, Guenthner, Haering, Hines, Holbrook, Holloway, Johnson, Kleier, Little, Mann, Marcum, May, Nett, O'Brien, Overstreet, Patrick, Pearman, Rattliff, Richards, Riner, Robinson, Romines, Schmidt, Siemens, Stewart, Turner, Van Horn, Weinberg, Williams, Wright.

Floor Amendment No. 1 to **HB 22** was rejected.

Representative Imes moved that **HB 22** be passed.

On the roll call the vote was yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Brown, Bruce, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn. Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Williams, Worthington, Wright, Yates. Nays 2-Carpenter, Wilborn.

HB 22 was passed and the title agreed to.

Representative Imes moved that the vote by which **HB 22** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative B. Richardson announced a Majority Caucus immediately following the meeting of the Committee on Rules.

Representative Johnson requested that his name be removed as a co-sponsor of **HB 146.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, January 13, 1978.

On the roll call the vote was yeas 65-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Bruce, Clapp, Craddock, Crupper, Davenport Dawahare, DeFalaise, Dietz, Donnermeyer, Foster, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Layman, List, Little, Marcum, May, McBee, Morris, Nett, Noe, Overstreet, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, William, Worthington, Wright, Yates. Nays 8-W. Allen, Deskins,Gray, Imes, LeMaster, Patrick, Priddy, P. Richardson.

The motion to adjourn was adopted.

FRIDAY, JANUARY 13, 1978

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. T. Harmon, First Methodist Church, Frankfort.

The roll was called. All present except Representatives Benson, Blythe, Boatwright, Burnette, Dawahare, Kidd, Little, Maynard, Noe, Sale, Siemens and Williams.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 12, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 205, by Representative Overstreet: AN ACT relating to political contributions.

HB 206, by Representative Van Horn: AN ACT relating to the turnpike authority.

HB 207, by Representative Imes: AN ACT relating to consumer protection.

HB 208, by Representatives Morris and Bruce: AN ACT relating to group health insurance policies.

HB 209, by Representative Gray: AN ACT relating to deductions from wages.

HB 210, by Representatives Brinkley and Fitzgerald: AN ACT relating to gasoline and special fuels tax credits.

HB 211, by Representative Fitzgerald: AN ACT relating to fiscal courts.

HB 212, by Representative Mann: AN ACT relating to occupational and professional licensing.

HB 213, by Representatives Foster and Carpenter: AN ACT relating to historic motor vehicles.

HB 214, by Representative B. Richardson: AN ACT relating to the lease of real property by the state.

HB 215, by Representative B. Richardson: AN ACT relating to motor vehicles.

HB 216, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 217, by Representatives Bendl, Hancock, Dunn, Gray, Jones, Kleier, Nett and Sale: AN ACT relating to rights of residents in long-term care facilities.

HB 218, by Representatives Bendl, Hancock, Dunn, Gray, Jones, Kleier, Sale, Schmidt and Siemens: AN ACT relating to the quality of care given by long term care facilities.

HB 219, by Representatives Bendl, Gray, Dunn, Jones, Kleier, Sale and Siemens: AN ACT relating to inspection of long term care facilities.

HB 220, by Representative LeMaster: AN ACT relating to court personnel.

Senate Message

Announcing passage of **SB 75.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 203.**

Appropriations and Revenue: **SB 75.**

Education: **HB 204.**

Health and Welfare: **HB 195, HB 198.**

Highways and Traffic Safety: **HB 201.**

Judiciary-Statutes: **HB 196.**

Public Utilities and Transportation: **HB 194.**

State Government: **HB 199, HB 200, HB 202, HR 14, HR 15, HB 197.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 173.**

Health and Welfare: **HB 70, HB 159.**

Appropriations and Revenue: **SB 75.**

Report of Committees

The Committee on Rules reported **HB 11, HB 126** and **HB 155** with Committee Substitute attached thereto, have been posted for passage in Orders of the Day, January 17, 1978.

Calendar

HB 12, HR 12, HB 83, HB 125, HB 64, HB 90, and **HB 142** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Deskins filed Floor Amendment No. 1 to **HB 31.**

Representative Bruce filed Floor Amendment No. 1 to **HR 12.**

Representative Beshear filed Floor Amendment No. 2 to **HB 103.**

Representative Riner moved the adoption of the following Legislative Citation No. 12:

The House of Representatives hereby honors Sister M. Alwinia Heinemann, O.S.S. Though blind, her creative expression of poetry, has given pleasant hours of reading to many. Through her deep compassion for others, she has made it possible for parents to share themost beautiful experience of life, the birth of a child. (Sponsored by Representative Riner)

Agreed.

Representative B. Richardson moved that the rules be suspended to allow posting of Bills and Resolutions. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration.

Appropriations and Revenue: **HB 121, HB 124, HB 143, HB 170, HB 164.**

State Government: **HB 180, HB 184, HB 157, HB 171.**

Education: **HB 117, HB 118, HB 71.**

Orders of the Day

HB 35 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Isler moved that **HB 35** be passed.

On the roll call the vote was yeas 75-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Bruce, Burch, Carpenter, Clapp, Clark, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, Marcum, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright, Yates. Nays 6-W. Allen, Brown, DeMarcus, Deskins, Fitzgerald, Lindsay.

HB 35 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 35** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 48, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of Committee Amendment No. 1 to **HB 48.** Agreed.

Representative Fitzgerald moved the adoption of Committee Amendment No. 2 to **HB 48.** Agreed.

Representative Fitzgerald moved that **HB 48** as amended be passed.

On the roll call the vote was yeas 76-J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Brown, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Marcum, May, McBee, McKinney, McNutt, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 9-Adams, W. Allen, Bruce, Holbrook, Imes, Mann, Morris, Overstreet, Richards.

HB 48 as amended was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 48** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 103** be deferred and tht it retain its position in Orders of the Day. Agreed.

HB 129 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Beshear, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Holloway, Imes, Isler, Johnson, Jones, Kenton, Layman, LeMaster, List, Mann, Marcum, May, McBee, McNutt, Morris, Nett, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Yates. Nays 7-W. Allen, DeFalaise, Haering, Kleier, Lindsay, Romines, Wright.

HB 129 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 129** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

HB 103, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 1 to **HB 103:**

Amend printed copy of **HB 103,** page 1, after the enacting clause by adding the following:

"Section 1. A new section of KRS Chapter 64 is created to read as follows:"; and on

page 1, line 1 by deleting "Section 1." and inserting in lieu thereof "(1)"; and on

page 1, line 8 by deleting "Section 2." and inserting in lieu thereof "(2)"; and on

page 2, line 2 following the word "class", by inserting the words "and counties containing urban-county form of government".; and on

page 2, line 7 by deleting "Section 3." and inserting in lieu thereof "(3)"; and on

page 2, line 13 by deleting "Section 4." and inserting in lieu thereof "(4)"; and on

page 2, line 20 by deleting "5." and inserting in lieu thereof "2.".

Agreed.

Representative Fitzgerald moved the adoption of Committee Amendment No. 1 to **HB 103.** Agreed.

Representative Fitzgerald moved the passage of **HB 103** as amended.

On the roll call the vote was yeas 80-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Brown, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, McBee, McKinney, McNutt, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright. Nays 2-Bruce, Morris.

HB 103 as amended was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 103** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain thier position. Agreed.

Announcements

The Clerk announced a meeting of the Committee on Rules upon adjournment in Room 307.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 17, 1978.

On the roll call the vote was yeas 67-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Bruce, Burch, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, May, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright. Nays 5-DeFalaise, Deskins, Fitzgerald, Guenthner, Imes.

The motion to adjourn was adopted.

TUESDAY, JANUARY 17, 1978

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Bennett, Benson, Beshear, Blythe, Burch, Clapp, Clarke, Crupper, DeMarcus, Gray, Guenthner, Head, Hines, Johnson, Kidd, Kleier, Maynard, McNutt, Pearman, Sale, Siemens, Stewart, Trevey, and Williams.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 13, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 221, by Representatives White and Bruce: AN ACT relating to state police officers.

HB 222, by Representative White: AN ACT relating to elections.

HB 223, by Representatives Romines, DeMarcus, Benson, Kleier, Little, Priddy, Siemens, Yates, McKinney, Riner, Holloway, and O'Brien: AN ACT making an appropriation for the interstate transfer of inmates.

HB 224, by Representative Dawahare: AN ACT relating to the coal producing county development fund.

HB 225, by Representative Burnette: AN ACT relating to sales and use taxes.

HB 226, by Representative DeFalaise: AN ACT relating to defense of state employes.

HB 227, by Representative Deskins: AN ACT relating to disasters and emergencies.

HB 228, by Representative Little: AN ACT relating to the education of handicapped children.

HJR 16, by Representatives Brown, Worthington, May, Cyrus, Arnold, Holbrook, Plummer and Carpenter: A JOINT RESOLUTION directing the Council on Higher Education to develop a proposal to equalize retirement contributions and benefits.

HCR 17, by Representative Weinberg: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study methods of providing in-service training programs for Kentucky local government officials.

HR 18, by Representatives Wells, Kenton, Donnermeyer, Brinkley, and Boatwright: A RESOLUTION in honor and memory of Hubert H. Humphrey.

HR 19, by Representative Wells: A RESOLUTION directing appointment of a committee to wait upon the Governor.

HJR 20, by Representative Hancock: A JOINT RESOLUTION directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor.

Senate Message

Announcing passage of **SB 23, SB 24, SB 29,** and **SB 27.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 210, HB 216.**

Banking and Insurance: **HB 208.**

Business Organizations and Professions: **HB 212.**

Counties and Special Districts: **HB 211.**

Elections and Constitutional Amendments: **HB 205.**

Health and Welfare: **HB 217, HB 218, HB 219.**

Highways and Traffic Safety: **HB 206.**

Judiciary-Courts: **HB 220.**

Labor and Industry: **HB 207, HB 209.**

Public Utilities and Transportation: **HB 213, HB 215.**

State Government: **HB 214.**

Report of Committees

The Committee on Rules reported **HB 12, HB 83, HB 90** with Committee Amendment attached thereto, **HB 125, HB 142,** and **HR 12** have been posted for passage in Orders of the Day, January 18, 1978.

The Committee on Counties and Special Districts reported **HB 68, HB 72,** and **HB 91** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 68, AN ACT relating to citation officers for urban county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 67A IS CREATED TO READ AS FOLLOWS:

(1) Urban county governments may appoint citation officers who shall have qualifications as prescribed by ordinance and who shall not have powers of peace officers to arrest or carry weapons but may issue citations as authorized by ordinance or statute.

(2) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

HB 72, AN ACT relating to the powers of the fiscal court.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any county may require permits for all proposed construction, substantial improvements to existing structures or other development, including subdivision proposals and the placement of mobile homes, in order to determine whether such construction, improvements or other development is proposed in flood prone areas.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any county may regulate construction, substantial improvements to existing structures and other development in flood prone areas by adopting by order or resolution, regulations to:

(1) Require construction of residential and nonresidential buildings at such elevations, by such methods, or from such materials as to minimize flood damage;

(2) Require the construction and location of public utilities and facilities such as sewer, gas, electrical, and water systems so as to minimize flood damage or inflitration;

(3) Require that mobile homes be so anchored or elevated as to reduce flood damage and floatation;

(4) Require that subdivision proposals be so designed as to provide for adequate drainage and to minimize flood damage;

(5) Designate lands adjacent to a river or other water course which discharge the waters of a base flood and prohibit any and all new construction, substantial improvements, and other development in this area which would increase the water surface elevation more than a designated height.

SECTION 3. Whereas, many counties have enacted local ordinances regulating land use and construction on the authority of KRS 67.083 in order to qualify for federal flood insurance, and whereas, the Kentucky Supreme Court has found KRS 67.083 to be unconstitutional, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HB 91, AN ACT relating to nonelective peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.300 is amended to read as follows:

(1) No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer or deputy peace officer, unless:

(a) He is a citizen of the United States and is twenty-one (21) years of age or over;

[(b) He has resided in the county wherein he is appointed to serve for a period of at least two (2) years;]

(b) [(c)] He has never been convicted of a crime involving moral turpitude;

(c) [(d)] He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute;

(d) He has submitted two (2) legible sets of his fingerprints to the Kentucky state police. One (1) such set shall be forwarded by the Kentucky state police to the Federal Bureau of Investigation;

(e) He has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record.

(3) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of this section shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

The Committee Amendment to **HB 91** is as follows:

Amend printed copy of **HB 91,** page 1, line 6, by inserting after the word "states" the following: *, a registered voter in the Commonwealth of Kentucky,*

Motions, Petitions and Communications

Representative Wells moved that the rules be suspended for the purpose of reporting and acting upon a Resolution. Agreed.

Representative Wells moved that the Clerk read **HR 18.** Agreed.

HR 18, A RESOLUTION in honor and memory of Hubert H. Humphrey.

WHEREAS, Hubert H. Humphrey, beloved "Happy Warrior" of American public life, has crossed that final bourne from which no traveler returns; and

WHEREAS, once in a generation there appears on the political scene a person so loving, so beneficient, so selfless, so forthright, or so thoughtful of the cares and concerns of others as to become larger than life and legendary in deed; and

WHEREAS, in the final, caring moments of his illustrious days Hubert Humphrey prepared remarks to be delivered on the anniversary of the birth of Dr. Martin Luther King, Jr., delivered, all too tragically, in a posthumous manner; and

WHEREAS, his indomitable spirit, his boundless enthusiasm, his jovial good nature, his determination in the cause of right, and his remarkable penchant for accomplishment were the hallmarks of Hubert Humphrey, even until his final moments; and

WHEREAS, the loss of so illustrious a personage from the political sphere of human activity leaves a void almost unfillable and a soreness of heart nearly irreparable;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Tuesday, January 17, 1978, it does so in loving memory, honor and tribute to Hubert H. Humphrey, and extends deepest sympathy to his family.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of Hubert H. Humphrey.

Representative Wells moved the adoption of **HR 18.**

HR 18 was adopted by voice vote.

Representative Wells moved that the rules be suspended for the purpose of reporting and acting upon a Resolution. Agreed.

Representative Wells moved that the Clerk read **HR 19.** Agreed.

HR 19, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform him that the General Assembly is prepared to receive any message he may care to deliver.

Representative Wells moved the adoption of **HR 19.**

HR 19 was adopted by voice vote.

The Speaker appointed a committee composed of Representatives Deskins, Isler, Tobin, Worthington, Noe and Bruce to join with a like committee of the Senate to wait upon the Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky, and invite him to address a Joint Session of the General Assembly to present his budget recommendations to the 1978 General Assembly. Representative Bruce was designated Chairman of this Committee.

Representative Lindsay moved that the rules be suspended for the purpose of making a motion in regard to allowing the privilege of the floor to former members. Agreed.

Representative Lindsay moved that former members be allowed the privilege of the floor. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion in regard to co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that requests for co-sponsorship of Bills and Resolutions be approved for members who have received permission of the primary sponsors and have filed the proper forms with the Clerk. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Adams, **HB 83;** Representative Boswell, **HB 83;** Representative Haering, **HB 23;** Representative Little, **HB 162;** Representative Noe, **HB 60;** Representative Riner, **HB 19, HB 20, HB 28, HB 70, HB 183;** Representative Romines, **HB 179;** Representative F. Smith, **HB 83;** Representative Thomas, **HB 12, HB 83;** Representative White, **HB 113.**

Representative Riner requested that her name be withdrawn as a co-sponsor of **HB 20.** Agreed.

Representative Schmidt filed Floor Amendment No. 1 to **HB 83.**

Representative Bruce, Chairman of the Committee to wait upon the Governor, reported that the Honorable Julian M. Carroll, Governor of the Commonwealth of Kentucky, will address a Joint Session of the General Assembly at 7:30 p.m.

Orders of the Day

Representative Wells moved that consideration of all Bills and Resolutions in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative Donnermeyer announced Right to Life group has postponed planned activities for today until January 25, 1978, from 11:00 to 12:00 a.m.

The Clerk announced a meeting of the Committee on Education for Wednesday, January 18, 1978, 9:00 a.m., Room 307.

Recess

Representative Wells moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative B. Richardson moved that the rules be suspended for the purpose of removing **HJR 15** from the Committee on State Government and reassigning it to the Committee on Appropriations and Revenue. Agreed.

Representative B. Richardson moved that the rules be suspended to eliminate the three day posting period on **HJR 15.** Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

The Clerk announced a meeting of the Committee on Appropriations and Revenue immediately after the Governor's message.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Thelma L. Stovall Lieutenant Governor and President of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the House and Senate resolve into Joint Session for the purpose of hearing the presentation of the budget recommendations by the Honorable Julian Morton Carroll, Governor of the Commonwealth of Kentucky. Agreed.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by Reverend Dennis W. Jones, First Presbyterian Church, Frankfort.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort him to the House to address the Joint Session, appeared with the Governor.

Lieutenant Governor Thelma L. Stovall introduced the Honorable Julian Morton Carroll, Governor of the Commonwealth of Kentucky.

Governor Carroll addressed the Joint Session of the General Assembly, as follows:

Lieutenant Governor Stovall
Mr. Speaker
Members of the General Assembly
My Fellow Kentuckians

I come tonight to present to you — before the people of Kentucky — our Executive Budget recommendations for the expenditure of the public monies which we are mandated to administer in the upcoming biennium.

It has been said that I am an "Education Governor," and by the time I have concluded my remarks here tonight, there will be no doubt in your mind as to why. We need — indeed we must have — quality education in Kentucky, and we have a lot of catching up to do.

But we cannot — even in the pursuit of the highest ideals and the greatest dreams — for one second ignore the complexities of life in this Commonwealth that confront all our citizens daily. These next two years present us with a tremendous opportunity to maintain our present unparalled economic growth. The bulwark necessary to launch those two years is already in place. We do have a sound Kentucky economy. We face no deficits, and sound financial planning will enable us to continue to live within our always limited resources.

The needs of our people are many and varied. Some needs are easily attainable. Some are, at times, more pressing than others, but they all have one thing in common. They all cost money — money that must come from taxes.

It has been and continues to be my policy that these needs must be met to the best of our ability without imposing any new or increased taxes. Rather than adding to what our citizens must feel is a crushing burden of local, state and federal taxes. It has been my policy to stimulate the economic base from which these taxes are derived. Through the development of our many economic resources, the income of our people increases, and our public revenues are able to expand.

In recent years this policy has proven very successful. As I said to you in my State of the Commonwealth Address, the rate of personal income growth in Kentucky ranks fourth in the nation.

Our general fund is estimated to increase by nearly 12 percent each year of the coming biennium. But although Kentucky's economic growth has indeed been impressive, there is no guarantee that it will remain so, and the development of our economic resources must continue to be one of our highest priorities to insure that the funds we allocate are indeed realized.

The Executive Budget before you tonight contains a wealth of recommendations for a better life for all Kentuckians. It is the product of much thought and effort by hundreds, perhaps even thousands, of your fellow citizens.

Literally hundreds of Kentucky citizens participated in broad-based Governor's Task Forces on Education and Economic Development over a period of many months — giving freely of their personal time and attention to issues that must have the input of as many knowledgeable and dedicated people as possible.

But formal task forces are just one source of invaluable public involvement in the financial plan I am recommending. For the first time, we carried the opportunity for individual citizen involvement in the budget process across the entire state. This fall we invited the people to attend and speak out at eleven regional public budget hearings covering the entire scope of the budget.

Over 1,200 of our citizens attended, spoke personally with the Executive Cabinet secretaries and wrote to express their priorities to the budget office. These "people priorities" are prominently reflected in the elementary and secondary education, higher education, human resources and development cabinet budgets I am recommending to you.

Economic Development

Our unprecedented growth and potential for further growth demands a variety of new and strengthened programs to bolster Kentucky's economic development through a wide range of state-local cooperative ventures.

One of Kentucky's four one billion dollar industries, tourism, is a little heralded source of tremendous income to thousands of our citizens and a vast resource to our tax receipts at the state and local level. This budget clearly recognizes the value of our tourist industry which exceeded one billion dollars for the first time in our history in 1976.

Among the new and expanded recommendations which we feel will further bolster the tourism industry in Kentucky includes:

***Upon the recommendation of the Governor's Task Force on the Economy, the initiation of a new division of tourism soon to be further expanded to a full department charged with local tourism development and management, with special emphasis on research, technical management assistance, and hospitality training as well as increasing our tourism promotion.

***The further expansion of the finest park system in the nation with a $10.5 million capital construction appropriation. This includes the expansion of one park lodge, the design and possible construction of additional golf courses, and possible location of an additional new state park.

***The opening of the new Kentucky State Horse Park in Lexington which will have the honor of hosting the 1978 World Three-Day Equestrian Event for the first time in North America. Over 100,000 visitors from all over the world are expected to attend this event.

***The inclusion of a $1 million tourist loan program under the umbrella of KIDFA to encourage further tourism development.

***A $22.5 million revenue bond for major development at the Kentucky Fair and Exposition Center including a year-around recreational vehicle park, a carnival midway, a theme park, relocation of the horse barns and a perimeter road with improved lighting and landscaping including construction of the downtown garage to furnish parking for the Convention Center.

***The further renovation and expansion of downtown sections of our major cities as we have done in Louisville, Lexington and Northern Kentucky by again funding our Convention Center Fund in the amount of $7 million to match the efforts of our ambitious communities in constructing local convention centers for community, recreational, tourist and exhibition events.

Kentucky's navigable waterways are among her oldest, and most important, economic assets. The Executive Budget recommendation includes $7 million to construct additional, and expand existing, riverport development facilities. With the opening of the Tennessee-Tombigbee Canal, Kentucky will have the greatest concentration of navigable waterways in the world.

The nationally acclaimed Kentucky Energy Research Laboratory began operation in July of last year. The budget I am presenting to you tonight includes over $3.5 million in new money to fund all aspects of this up-to-date Coal Research Laboratory. My recommendations will provide significant expansion of our research activities in the areas of coal gasification, liquefaction, and other energy-related areas.

To further encourage development in our coal counties, I am continuing our general fund support for the Coal Severance Economic Aid Fund and the Area Development Fund. We have found that the restrictions on the use of this money have made it difficult for our coal counties to process their projects and to make all their proposed projects eligible for funding. Therefore, we will be recommending changes in the 1976 Act that will expand the uses for which these funds might be utilized as well as making it easier for projects to be processed.

In this budget, agriculture retains its high priority. As long as I have a voice in state government operations, the farmers of Kentucky will not be ignored.

I am asking you, through funding for the Governor's Council on Agriculture, to continue our strong advocacy for the interests of farmers, particularly in seeking better markets for farm products, and in gaining increased public awareness of the importance of agriculture.

Recognizing the current agricultural cost-price squeeze, the budget is geared to accommodate some tax relief for farmers. Therefore, I am supporting removal of the sales tax from motor fuels, used for off-highway agricultural purposes, and revision of the inheritance tax laws to make it easier for surviving spouses to keep smaller family farms in production.

I have recommended funding for virtually every budget proposal offered by the State Department of Agriculture.

This includes $200,000 in new funds for a first-point-of-concentration testing program for brucellosis, to be matched by $610,000 in federal funds; $200,000 for a calf-hood vaccination program, to be matched with federal dollars, and doubling the maximum a county fair can receive from the state for facility repair or expansion.

Further the budget proposes a $1.5 million fund for agricultural loans as recommended by the Agricultural Task Force of the Economic Development Commission. It also seeks $100,000 for soybean research, and expansion funds to strengthen the two animal diagnostic laboratories at Lexington and Hopkinsville.

Finally, I am recommending almost $7.5 million in new money to support the University of Kentucky Extension Service and agricultural research programs. Included are funds to raise the salaries of county agents and extension specialists to the national average. We should not do less if we are to properly support the extension and research programs so vital to rural Kentucky.

Regulation and Safety

We must constantly strive to ensure the citizens of the Commonwealth the safest possible living and working environment. To that end, I am recommending $1.4 million in new money for the State Fire Marshal's Office to increase the inspection staff by fifty percent.

These funds will enable the newly created Department of Housing, Buildings and Construction, which now contains the Fire Marshal's Office, to better regulate the various aspects of building safety.

The safety and accessibility of public buildings is a matter of immense national concern. The tragic Beverly Hills fire has brought the issue home to those of us in Kentucky. Those of us responsible for safety in our publicly owned buildings as well as the regulation of privately owned buildings utilized by the public are determined that we do everything within our power to prevent another Beverly Hills tragedy within our lifetime.

Unfortunately, most publicly owned and accessible buildings presently in use were constructed without regard to safety and accessibility.

We frankly have no complete statewide inventory of the life safety, fire code, and handicapped access status of the hundreds of state-run buildings. We do know that many, and possibly even most state buildings fall short in some aspect of current required standards. We also know that the cost of bringing such buildings immediately up to standards would be staggering.

There is no question but that our present state resources are inadequate to meet entirely these deficiencies within the time they should be corrected. I must therefore inform you that I considered the financial demands required to correct the life safety, fire code and handicapped access deficiencies so great that I was unable to even begin to fund them in this budget by direct appropriation.

Thus, it is imperative that we consider immediately other alternatives to correct these deficiencies and protect the lives of our citizens. It might be said that you and I have inherited decades of neglect, but whatever the circumstances, we must act responsibly now. Although I have no specific course of action to recommend to you tonight, this difficult issue must require considerable thought on our part during the ensuing weeks.

As a result of the recommendations of my Deep Mining Safety Commission, the members of the General Assembly during the Special Session enacted legislation that has made Kentucky a national leader in miner safety training and education. Over $1.4 million in increased support is provided for additional personnel in mine inspection and miner training.

Protection of the consumer continues to be one of my priorities. For this reason I am recommending additional general fund dollars for the Consumer Protection Division of the Attorney General's Office to expand their efforts, particularly in the areas of insurance and utility rate increases. Also, state general funds are recommended to continue the economic fraud unit and the anti-trust unit which were initiated with federal grant funds.

The safety of our citizens is of paramount importance to those of us entrusted with public responsibilities, and this is especially true during times of natural disaster when entire communities can be paralyzed. The flooding in 15 southeastern Kentucky counties last April brought a disaster declaration from President Carter.

One program available to flood victims was the individual and family grant program which paid out over $18 million to more than 6,000 victims of the food in southeastern Kentucky. I am recommending $4.5 million to repay the state's share of this important program, which has benefitted our citizens in their time of distress.

Justice

My justice budget reflects my desire to improve the entire criminal justice system throughout the Commonwealth. I am recommending more than a 20 percent increase, or approximately $26 million in new state support over the biennium, for the Department of Justice.

It was necessary that we provide over $1.4 in state funds to replace a like amount of lost federal funds that were supporting our Boone County Career Development Center for Women, the innovative seventh step organization, and the crime prevention program and crime labs jobs that we implemented in 1975. I believe the $6 million in increased operating support for the Bureau of Corrections — the largest such increase in memory — clearly establishes my firm support for our corrections program. These funds plus $15 million in new capital construction funds will help alleviate the overcrowded conditions in our state penal institutions, maintain security, as well as help us address some long-deferred problems in prisoner rehabilitation, health care and career development.

To meet my commitment to prisoner rehabilitation, I am proposing over $1 million in new money to increase the professional staff at the State Penitentiary at Eddyville.

I am also recommending $745,000 in expansion funds for the Kentucky State Reformatory at LaGrange to help us deal with the projected increase in prisoner population at that institution over the biennium. In addition, over a quarter of a million dollars for renovation of the LaGrange Hospital is provided to serve female offenders from the Kentucky Correctional Institution for Women.

My budget recommendations to you also reflect my concern about further reducing our crime rate. To this end, I am recommending $670,000 in new money for 25 new troopers to increase our law enforcement efforts and $1.8 million for the replacement of several existing state police posts.

For far too long, state government has ignored the needs of its handicapped citizens. I am thus requesting new dollars to fund the protection and advocacy system of the public defender, which is designed to advocate and protect the rights of the developmentally disabled.

Judiciary

A little over two years ago, in November of 1975, the voters of Kentucky indicated their desire to have our judicial system revamped. Now in January, 1978, we are fully completing the mammoth task of implementing a unified court of justice.

The recommendations embodied in the Executive Budget reflect full funding of a fully operative unified court system.

For the upcoming biennium, I recommend a total of $77.2 million in general fund support. This is a $50 million and 184 percent increase over last biennium. As you remember, in the Special Session of 1976 this legislative body added over 900 new judges, circuit clerks, deputy clerks, and administrative personnel to the state payroll to support the new judicial structure. This Executive Budget for the 1978-80 fiscal period, will provide over 350 new judicial personnel — above those authorized just one year ago — to support the unified court of justice. In short, what has sometimes disparagingly been called a "bare bones" budget is now completely supported and funded at all levels in the Executive Budget. It is my expectation that this massive dose of new money and personnel will enable Kentucky to have a court system of which all Kentuckians may be proud.

Included in this $77 million recommendation are salary improvements for the 221 justices and judges serving in the new court system. Specifically, a $3,000 per year salary increase for the Supreme, Appeals, and Circuit Court justices and judges is recommended effective January 1, 1980. A $1,000 per year raise effective January 1, 1979 and a $3,000 per year raise effective January 1, 1980, is recommended for each district judge. I feel this is necessary to retain the quality of person needed to serve on the Commonwealth of Kentucky bench.

A most prominent new expenditure of the proposed budget is for circuit clerks and their deputies. On January 1, 1978, the 120 circuit clerk offices became a state funded responsibility.

The dimension of the state commitment to adequate support of this program is evidenced by the proposed expenditures of $14.9 million in fiscal year 1979 and $15.6 million in fiscal year 1980. A current year appropriation of $2.2 million is recommended to effect a smooth transition and for the hiring of 277 additional deputies in addition to those provided for by the Legislature in the 1976 Special Session. Additionally, I am proposing a $200,000 contingency pool this current year so that any unforeseen complications in the clerks' offices may be handled without disrupting normal court operations.

One of Kentucky's most innovative programs supported by the 1976 General Assembly was the pretrial release program created as a result of our abolishing commercial bail bonding and replacing it with a state-supported system. I am proud to say that the pretrial release program has met with tremendous success. For the upcoming biennium, I propose an expenditure level of $1.9 million the first year and $2 million the second year of the biennium to insure the fiscal integrity of this program. This cost is over $1 million less than projected when the program was inaugurated.

The question of providing adequate court space and facilities has been a complex and perplexing one for local elected officials, members of the General Assembly, the judiciary and the executive.

The budget recommendation before you represents a compromise that I think will realistically address this difficult problem. Assuming the passage of some new legislation, in large part drafted by members of your interim committee system, I am proposing a total of $3.6 million in fiscal year 1979 and $4.9 million in fiscal year 1980 for court facilities. It is my hope that a compromise legislative measure, utilizing the expanded dollar amounts included in my budget recommendations, will resolve this problem.

Finally, legislation enacted during the 1976 Special Session of the general Assembly to implement the new state court system has added significantly to many court-related costs the state executive branch must bear directly. To meet these costs, over $14 million in new general fund dollars are recommended for the county costs budget during the 1978-80 Biennium.

Included within this total are additional funds to pay for all witnesses in both circuit and district court rather than just felony witnesses in circuit court; an additional $800,000 to pay for all jurors in both circuit and district court, and approximately $9.2 million in new dollars to pay for "dieting" all prisoners who violate a state statute rather than just felony prisoners in circuit court.

This budget recommends over $8 million each year of the biennium to fund the unified prosecutorial system created by the 1976 Special Session.

This system in Kentucky will be totally state funded. Quite candidly, of all the requests received, we had the most difficulty in evaluating and determining what level of funding to recommend to you for the prosecutorial system. I counseled with numerous legislators and finally arrived at a minimum level of funding which must now be further evaluated by you. Quite frankly, I feel there is a necessity for some further legislative guidelines prior to an effective evaluation of the funding required for a prosecutorial system in Kentucky.

Human Resources

In the area of Human Resources, I firmly believe Kentucky's scarce human services' dollars are best spent on those programs offering the most hope of preventing the conditions that breed poor health, poverty and dependence. This pholosophy is evident throughout my budget recommendations. At the same time, we should all recognize that the first obligation of our human service programs is to offer assistance to those requiring it to achieve a minimal decent standard of living. I feel this administration has more than fulfilled its responsibility in this are and that my proposed budget reinforces our commitment throughout the next two year.

The largest single expansion in the Department for Human Resources is for new neonatal services. This budget recommends that you fund services in the department and the the University of Kentucky in the amount of $9.8 million, and expresses our concern and also our commitment to the severely ill infants of Kentucky. This high-priority item consists of a four-pronged effort to remedy current problems by:

***Establishment of a reimbursement system for intensive-level facilities to insure availability of this care.

***Provision of financial assistance for the development of intermediate-level care on a regional basis.

***Establishment of a reimbursement system for intermediate-level facilities to insure availability of this care.

***Increasing the number of beds available at the University of Kentucky.

> The development of a network of 14 intermediate level hospitals across the state will help reduce the critical situation in intensive-level care. Beds which are currently being occupied by infants who could effectively be treated at intermediate level facilities, will be freed for the more critically ill infants. The regional hospitals will be located in Bowling Green, Paducah, Henderson, Madisonville, Somerset, Frankfort, Hazard, Covington, Pikeville, Ashland, Morehead, Harlan, Elizabethtown, and Richmond.

In my last budget speech two years ago, I related to you my belief that disabilities in children which can be corrected early should receive high priority.

To that end, I proposed, and the General Assembly approved, funds to eliminate the waiting list for children who require corrective surgery and support services. There is a large unmet need in Kentucky with regard to the availability of early and periodic screening, diagnostic and treatment services for children ineligible for these services under the Kentucky medical assistance program. Expansion funds of approximately $2.9 million for the biennium are being recommended to allow the screening of approximately 30,000 children the first year and 30,000 children the second year.

Also in the human services area, I am proposing that the Division for Mental Health and Mental Retardation Services receive over $3.6 million in additional funding during the biennium.

In addition to the human suffering these programs will ease, services like these are designed to save us millions of tax dollars in future years by insuring early, adequate attention.

Increasing demand and decreasing federal funding have led to a crisis situation for our system of comprehensive care centers. In an effort to bring this problem to light, I have asked the General Assembly to consider this problem along with the executive branch of government. Expansion funds of $3 million for the biennium have been included in this budget for comprehensive care center funding. However, the guidelines for the use of these funds will be based upon the recommendations of the special legislative Commission on Comprehensive Care Centers.

An increase of nearly $4 million in general funds over the 1978-80 biennium is recommended in this budget for the Aid to Families with Dependent Children Program in Kentucky. This increase will enable us to maintain our payment levels to recipients at their current level.

One program that should truly pay for itself is our collection of child-support payments. In responding to a federal mandate to assist both welfare and non-welfare families in collecting child-support and locating absent parents, Kentucky's program is set up to collect more in child-support payments than the state will have to spend to operate the child-support program itself. Thus, I am recommending an appropriation of $900,000 to find absent parents over the next biennium and require them to make their child-support payments. This should be welcome news to Kentucky's taxpayers.

One of the most common misconceptions about public assistance is the notion that anyone who lacks an adequate income is taken care of by one welfare program or another. That is simply not the case. Therefore, I am proposing that we allocate $1.5 million in general funds in the second year of the biennium to create a new program of short-term crisis assistance to aid these people.

With the establishment of the Office of Inspector General, state government now has a specialized unit to monitor welfare programs and investigate and prosecute fraud. It is our job both to take care of human needs and to stop those who would abuse the system to the detriment of all our taxpayers.

My proposed budget also includes funds to continue Kentucky's medical assistance program and to expand our efforts at early and periodic screening, diagnosis and treatment for under-privileged children: our home health services, so that more patients can be treated at home rather than remaining in a hospital, and our dental prevention services for under-privileged children.

My recommended budget includes $2 million in general funds to better enable Kentucky's aged, blind and disabled to obtain such specialized living arrangements as they may require.

Project independence is an innovative approach toward maintaining elderly Kentuckians in their own homes.

I am asking you to approve an additional $1 million to make possible the extension of this invaluable service to the elderly to an additional area development district.

In addition, I am recommending nearly $2 million for a specialized foster care program designed to provide for emotionally disturbed children who have multiple and/or severe problems. This program will offer specialized substitute family living through foster care to some 360 emotionally disturbed children who presently reside in institutions, private child care facilities or nursing homes.

Natural Resources and Environmental Protection

The conservation of our natural resources and the protection of our environment is of concern to us all. We must safeguard the quality of our water and air and provide for the safe disposal of our wastes to assure not only the safety of this generation of Kentuckians but also that of our children and grandchildren.

To that end, in this budget I am providing an increase of 47 percent, or $12.5 million in new state money, over the current biennial budget for the Department for Natural Resources and Environmental Protection.

As you know, Congress recently enacted the first nation-wide program to regulate surfacing mining and its environmental effects.

The implementation of the new federal Surface Mining Reclamation and Control Act will be a challenge for all the coal-producing states in the nation. As the nation's leading producer of coal, Kentucky will be tremendously affected.

As a result of the federal legislation, I am recommending for your consideration not only the legislative proposals necessary to bring Kentucky's reclamation laws into compliance with this Act, but also a total of $2.2 million in new general fund dollars to allow Kentucky to attain a primary position among the states in the implementation of this law.

These new state funds will allow us to establish 248 new positions in the recently created Bureau for Surface Mining Reclamation and Enforcement.

The inspection and engineering staffs will be doubled in size and district offices will be expanded from six to nine.

The tragedy recently experienced in Georgia as well as past tragedies such as Buffalo Creek place even greater emphasis on the need for continuous monitoring and inspection of dams throughout Kentucky. I am recommending in my Executive Budget three items related to dam safety:

First, I am doubling the present staff in the Bureau for Natural Resources charged with the inspection of some 779 identified dams which will provide for the inspection of the state's 200 high-hazard dams at least once a year.

Secondly, I am recommending a total of $5 million over the biennium to continue the community flood damage abatement program which was initiated in the last budget.

Finally, I am recommending $2 million over the biennium in capital construction funds to provide for the repair and maintenance of state-owned or state-constructed dams.

We have, in recent years, addressed ourselves to the need for clean air and water. We have not, however, dealt with the safe and adequate disposal of the mountains of waste our society generates, especially those wastes hazardous to the health of our citizens. For the 1978-80 biennium, over $400,000 is recommended to expand the professional staff trained to deal with the problems associated with hazardous waste disposal.

I will address the subject of solid waste separately as I transmit to you the recommendations from the Governor's Commission on Solid Waste.

Transportation

This administration believes that common sense dictates that we must provide adequate maintenance of a safe and efficient transportation system for the conveyance of our citizens and our goods. This goal has become increasingly difficult because of the tremendous increased cost of road building and maintenance. The problem is compounded by an interstate system that requires maintenance for which no federal funds are provided. Road maintenance difficulties were further aggravated by a severe winter last year and again by floods in the spring. Of course, our coal haul road maintenance continues to be a serious problem in our coal counties as well as in some non-coal producing counties through which coal is transported.

For these reasons we are recommending that:

***You again appropriate $26 million from the general fund to the energy road fund to maintain our streets and highways in coal-producing counties.

***You set aside $10 million in state road funds each year for the purpose of matching $80 million in anticipated federal funds for energy roads.

***You authorize an additional $10 million for county-road aid on a one-time basis to catch up some of the damage inflicted by the severe winter and floods of last year.

We now see that with Kentucky's coal reserves and the energy shortage, our rail system is becoming more vital to the welfare of the Commonwealth.

Unfortunately, we also see an increase in dangerous derailments across the state. I am told that many of these accidents can be attributed to deteriorated trackage and rail beds. I feel that we must ensure an efficient rail transportation system, while at the same time protect the safety of our communities located on rail lines. Therefore, my budget — for the first time in history — includes state funds to match forthcoming federal dollars for Kentucky's rail system.

Executive Management

One of the prime concerns of this administration has been the economy and efficiency of state government, to improve our responsiveness to the citizens we serve.

When I spoke to the Kentucky Association of Counties last fall, I emphasized the need to cut red tape and increase the effectiveness of state programs so that the time between a request of state government and its subsequent response is reduced. I have, therefore, included in my budget recommendations funds to establish several regional state offices throughout the Commonwealth. These offices will serve to enhance the cooperation and coordination between state agencies in meeting an area's needs.

To meet the needs, outlined in the budget, our state payroll must grow. However, as I pledged to you two years ago, state government will not be allowed to grow "like a snowball rolling down a hill."

Instead, consistent with our hiring restraint program implemented two years ago, we will grow where justified; and we will cut back where possible. I do not surrender to the notion that every government agency must grow, and we will continue our restraints on personnel expansion, particularly our "proof of necessity" procedure through which every position must be fully justified before it can be filled. Thereby, the taxpayers of Kentucky can be assured that any growth which does occur will be limited, controlled, essential, and justifiable.

I commend the 1976 General Assembly for having approved a new pay system for state employes, and am asking you to endorse its continuation for the next biennium.

Therefore, the Executive Budget provides for annual 5 percent automatic increments for all permanent employees, and recommends a $35.6 million appropriation for selective pay adjustments needed to recruit and retain employees in critical positions.

Our budget this biennium also establishes three services for our state employees not previously authorized. We have funded medical insurance for our retired employees until they qualify for medicaid, and we have also funded moving expenses and a system of reimbursement for automobile liability insurance.

As I have mentioned previously, the recommendations contained in this budget will provide for the delivery of government services without an increase in existing taxes or the imposition of any new tax. In conjunction with this policy, I am recommending over $1.4 million in additional funding for the Department of Revenue to improve the administration of the present tax system. This recommendation will fund additional tax auditors, technical assistance, and support staff for the department's programs to ensure the efficient and equitable administration of present state taxes.

Higher Education

Two years ago, my recommendations for higher education resulted in a current-year level of support which represent the fourth highest increase of any state in the nation. My recommendation for higher education, as you will note tonight, exceeds by 46 percent my biennial recommendation of two years ago. Emphasis is placed on upgrading the salary level of faculty members whose current salary is below those benchmark levels identified by the Council on Higher Education. I am also recommending funds to upgrade the salaries of those employees who support the operation of these same institutions. Included in this group are all clerical, maintenance and other personnel providing direct and indirect support to the faculty, students and administrators of the universities.

Unlike two years ago, the Council on Higher Education played an important role in the development of the higher education budget for the next two years. I have been determined that the council assume a strong role in coordinating and planning our higher education system in Kentucky. The council's in-depth review of institutional budget requests indicates that my goal is being realized. My confidence in the council is reflected in the fact that I am recommending 99 percent of the council's request for general fund dollars in fiscal year 1979 and 98 percent in fiscal year 1980.

My recommendation for the University of Kentucky, our comprehensive state institution, ensures that UK will maintain its national status as one of the leading research and teaching universities in the country.

Once again the University of Louisville, our urban state institution, received substantial general fund increases. We are alleviating many problems at U of L during the current biennium; however, accreditation problems in a few areas still persist and my recommendations for the university will rectify this situation. I have also insured that the ambulatory care facility, a major portion of the Louisville Teaching Hospital Complex, which will be completed by the end of the biennium, will have ample operating funds.

I am also recommending $3 million to assist the city of Louisville and Jefferson County in paying for indigent patient care at Louisville General Hospital.

Our system of regional institutions is being encouraged to develop programs and activities unique to their service areas. Since the council undertook to define and clarify each institutional role and mission, the duplicative and unnecessary program offerings that were common during higher education's growth years are now being brought under control by the council's review of all new and existing programs.

Among all institutions, Northern Kentucky University received the largest percentage increase in general fund support — 26 percent in the first year of the biennium. As the state's fastest growing regional institution serving the state's second largest urban population, Northern's staff and faculty have been hard pressed to keep up with student growth. I pledged during my campaign that I would ensure that the facilities problems at Northern would be addressed. Northern now has the ability, as a result of this budget, to complete its campus.

As you are probably already aware, I have undertaken an innovative approach to funding an expanded program of student loans.

Since early last year I have been exploring the possibility of issuing revenue bonds to fund the state's loan program. The Higher Education Assistance Authority will introduce legislation asking for the authority to issue $23 million in bonds to fund its loan program during the biennium. This will benefit approximately 10,000 students each year.

In addition, the authority will operate the state student incentive grant program and the tuition grant program at expanded levels.

A $1.9 million appropriation for the tuition grant program will provide students attending the state's private institutions a tuition subsidy, while a $2 million appropriation each year for the state student incentive grant program will enable both private and public students to receive similar grants.

Elementary and Secondary Education

In elementary and secondary education, my recommendations for the next two years provide well over $270 million in new money.

The largest portion of the funding increase will be for support of the minimum foundation program. Foundation expenditures will increase from $536 million in fiscal year 1978 to $672 million in fiscal year 1980.

By the close of my administration the average teacher's salary in Kentucky will increase to the average of the seven surrounding states. Our recommended budget includes average instructional allotment increases of $1,480 for fiscal year 1979, and $1,465 for fiscal year 1980. This increase, accompanied by continued local school district support, should increase the average teacher's salary from approximately $11,700 in the current school year to at least $14,615 in the 1979-80 school year.

When I arrived in office, Kentucky ranked 46th nationally in teachers' salaries. As a result of my first budget, Kentucky ranks 38th among all states, according to national educational association figures, in level of the average teacher's salary for 1976-77.

My recommendations for salary increases are projected to improve this ranking to 24th nationally by the end of this administration. It is further projected that Kentucky's estimated per pupil expenditure level will increase as added funds are expended for salaries. The salary increases, plus my other recommendations, will move Kentucky's state support per pupil to a projected level of 11th in the nation two years from now.

In line with professional educators' recommendations, there will be higher than average salary increases for the more experienced and better educated teachers, while inexperienced teachers with limited education will realize less.

This will help keep qualified, experienced teachers on Kentucky's school payrolls.

The cost associated with the teacher salary increase will amount to approximately $144.2 million in additional funds for the biennium.

Another area that will receive substantial funding increases during the biennium is the current expense allotment — state funds provided to local school districts for basic operating expenses, $28.4 million in additional funds will be distributed in this category over the biennium. This represents a total current expense improvement of some 70 percent per unit since I assumed office. The recommended 1978-80 budget also includes a current year, one-time current expense allotment of $55 per unit. The state expense for this allotment will approximate $1.7 million.

In addition, the capital outlay category of the foundation program will receive added funding of $6.5 million over the biennium. Capital needs will be further aided by the establishment of the Kentucky School Building Authority which will assist school districts with local school construction and for which legislation will soon be introduced.

If you approve my recommendation, the Commonwealth of Kentucky will have a statewide public kidnergarten program by the end of this administration.

I have also included a new pilot program for educating gifted children through 200 "gifted" classroom units in this budget.

Other classroom unit increases will include 175 new vocational education units each year: 200 exceptional children units in 1978-79 and 400 in 1979-80; plus a new superintendent unit for each district.

With increasing strain on our schools to meet the cost of pupil transportation, I am recommending $4.4 million the first year of the biennium and $8.7 the second year for this portion of the foundation program. The transportation cost increases relate to inflation, increased kindergartens, greater transportation requirements for exceptional children, and improved safety equipment for school buses.

In an attempt to further equalize the educational opportunities among all areas of the Commonwealth, I am proposing significant increases to the power equalization program. Expansion in this program has also been suggested by my task force on education.

Under the power equalization formula, each district continues to determine its own tax rate. The state, however, supplements local revenues so that each district receives as much money per pupil as if its tax rate were applied in the wealthiest school district in the state.

During the current biennium, the concept of power equalization was established by the General Assembly at an annual cost of $10.5 million.

The 1978-80 Executive Budget includes an additional $31.5 million to increase the equalization by 200 percent.

In a further attempt to equalize educational opportunities in Kentucky's school districts, I am supporting a recommendation of the Education Task Force prohibiting the accumulation of bonus units by local school districts. Currently, some school districts have unfairly received double funding for certain students in special programs, while other districts have been ineligible for double funding. I am recommending that this inequity which allows such double funding be eliminated.

In the 1976-78 biennium we proposed eliminating student fees and provided over $7 per pupil each year to meet this need.

The annual cost for 1977-78 is $4.6 million. I suggest we increase this allotment to $20 per pupil and statutorially prohibit the practice of charging students fees in the public schools. This dramatic increase in funding, which will be used primarily to offset the operating expenses of school districts, will cost in excess of $16 million in new money.

With this proposed budget, all textbooks and supplemental materials will be completely free to all students from kindergarten through high school starting in the 1978 school year. With the abolition of student fees and this comprehensive textbook program, we are for the first time in history capable of saying that Kentucky's children have 13 grades of free education.

In accordance with the Task Force on Education recommendation and in response to legislation introduced two years ago, I have recommended over $1 million for both career and consumer education so that our children might have a well-rounded education.

One of the major problems in our school system in Kentucky has been the lack of broad based public confidence. Recognizing this fact, the Governor's Task Force on Education recommended the implementation of a statewide testing program in order to accurately measure the academic achievements of our students. I am supporting this recommendation and have funded in this budget a testing program that will center on diagnostic tests for pupils in the 3rd, 5th, 7th and 10th grades.

These tests will not be utilized to promote or graduate the students, but will only be used to determine what remedial instruction a student requires in order to meet certain desired educational standards. I am convinced that this testing program will further improve our elementary and secondary education system in Kentucky and hopefully restore the public's confidence in our educational system.

My vocational education budget provides for opening 12 new facilities and provides training for 100,000 additional citizens. This will be done through a 58 percent increase in state support, including $5.5 million for additional programs and $4.5 million for modern equipment to assure students receive training relevant to today's industry needs.

Some Kentuckians must receive special attention through our vocational rehabilitation programs, and our residential educational facilities for the blind and the deaf. All of these programs will receive substantial increases for both construction needs and program expansion.

When our teachers retire after years of dedicated service to our Commonwealth, they deserve to have an adequate retirement plan provided through a soundly funded retirement system. My budget proposal contains $20.4 million to reduce unfunded liabilities of our system, and to provide increases in benefits for presently retired teachers, plus those retiring in the future.

We are fortunate to have at our disposal substantial new money in the upcoming biennium, largely due to the relatively healthy and productive economic climate that I outlined to you in my State of the Commonwealth Message several weeks ago.

Thanks to this, we are able to provide many new services demanded by our citizens, improve many of the programs already in existence, and, at long last, bring Kentucky's public educational system into the light of a new and rewarding day.

I have talked long tonight, and I have covered only some of the highlights of the Executive Budget. I hope every member of the General Assembly — every citizen of Kentucky — will study it carefully in the coming weeks.

I think you will then all agree with those who have worked so long to formulate it that it is strong, it is tight, it is good.

Thank you and Good Night.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Announcements (continued)

Representative Noe filed Floor amendment No. 1 to **HB 60.**

Representative B. Richardson moved that when the House adjourns it do so until 11:00 a.m., Wednesday, January 18, 1978. Agreed.

The Clerk announced the following Committee meetings:

State Government: Wednesday, January 18, 1978 at 12 noon.

Health and Welfare: Wednesday, January 18, 1978 at 12 noon.

Labor and Industry: Wednesday, January 18, 1978, 9:00 a.m.

Representative B. Richardson moved that after recess no business be conducted other than Report of Committees and Introduction of Bills and Resolutions. Agreed.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Appropriations and Revenue. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Clerk announced a meeting of the Committee on Rules immediately following adjournment.

Representative B. Richardson moved that the rules be suspended for Report of Committees and Introduction of Bills and Resolutions. Agreed.

Report of Committees

The Committee on Appropriations and Revenue reported **HJR 15** and **SB 75** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 15, A JOINT RESOLUTION making an appropriation to the Legislative Research Commission for special expenses incurred in connection with sessions of the General Assembly and declaring an emergency.

WHEREAS, additional personnel are necessary to expedite properly the business of the Senate and the House of Representatives; and

WHEREAS, the present appropriation of the Legislative Research Commission is insufficient to provide adequate clerical services to the General Assembly;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

That there be appropriated out of the General Expenditure Fund to the Legislative Research Commission the sum of eight thousand one hundred forty seven dollars ($8,147) per calendar day during all regular and special sessions of the General Assembly. This appropriation shall be available for expenditure during the 1977-78 and 1978-79 fiscal years.

WHEREAS, the General Assembly is now in session and it is necessary that these funds be available immediately, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the Governor, and shall be retroactive to include payment of compensation to such personnel from and including January 3, 1978.

SB 75, AN ACT relating to the general assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.193 is repealed.

Section 2. Whereas, the general assembly finds that the changes in the method of paying legislative compensation contemplated by KRS 6.193 will result in undue confusion to the state agencies involved and undue hardship on many citizen-legislators, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor, and shall be retroactive to include any and all days during the 1978 regular session of the general assembly which may have elapsed as of the date of passage and approval of this Act.

Introduction of Bills and Resolutions

HB 229, by Representative Wells: AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

HB 230, by Representative Gay: AN ACT relating to state personnel.

HB 231, by Representative White: AN ACT relating to insurance programs for certified employes of boards of education.

HB 232, by Representative DeFalaise: AN ACT relating to special license plates for general assembly members.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Hancock, **HB 219;** Representative Schmidt, **HB 229.**

Representative Hancock requested that his name be removed as a co-sponsor of **HB 218.**

Adjournment

Representative B. Richardson moved that the House adjourn until 11:00 a.m., Wednesday, January 18, 1978.

The House adjourned by voice vote.

WEDNESDAY, JANUARY 18, 1978

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Dennis W. Jones, Firt Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Beshear, Blythe, Burch, Clapp, Crupper, DeMarcus, Gray, Hines, Kidd, Kleier, Maynard, McNutt, Pearman, Sale, Siemens, Stewart, Tobin and Trevey.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 17, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 233, by Representative B. Richardson: AN ACT relating to public assistance.

HB 234, by Representative B. Richardson: AN ACT relating to fines.

HB 235, by Representatives Fitzgerald and Mann: AN ACT relating to work on Sunday.

HB 236, by Representatives LeMaster and Johnson: AN ACT relating to divorce.

HB 237, by Representatives Arnold, Worthington, and Jones: AN ACT relating to the merger of the positions of fire chief and police chief in cities of the fourth, fifth or sixth class.

HB 238, by Representatives Arnold, Worthington, and Jones: AN ACT relating to the merger of police and fire departments in cities of the fourth, fifth and sixth classes.

HB 239, by Representative Arnold: AN ACT relating to the relocation of graves.

HB 240, by Representative Little: AN ACT relating to oil and gas.

HB 241, by Representatives Bruce and Morris: AN ACT relating to revenue and taxation.

HR 21, by Representatives Burnette and Boatwright: A RESOLUTION supporting the "American Farm Movement."

HR 22, by Representative Burnette: A RESOLUTION to adjourn the House of Representatives in honor and memory of Vyron Mitchell.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 223, HB 224, HB 225, HB 229.**

Education: **HB 228, HB 231, HR 16, SB 23, SB 24, SB 27, SB 29.**

Elections and Constitutional Amendments: **HB 222.**

Public Utilities and Transportation: **HB 232.**

State Government: **HB 221, HB 226, HB 227, HB 230, HR 17, HR 20.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **SB 51.**

Report of Committees

The Committee on Education reported **HB 113** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to teacher retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1976, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of thirty (30) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty (60) years [, and under (b) if less than age fifty-five (55) years].

(2) Any member shall be automatically retired as of July 1 next following the seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for thirty (30) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service [whose age at retirement is fifty-five (55) years or more] shall be calculated as follows:

(a) For retirements effective during the 1976-77 fiscal year the annual allowance shall be sixty-four dollars ($64) times the number of years service credit prior to July 1, 1941, plus two percent (2%) of the final average salary times the number of years service credit after July 1, 1941. Actuarial discounts due to age at retirement may be applied as provided in *subsection* [subsections] (1)(c) [and (1)(d)] of this section.

(b) For retirements effective July 1, 1977, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service prior to July 1, 1941, shall be eighty-eight dollars ($88) per year.

[(c) If the member has thirty (30) years or more of Kentucky service, including credit for military service and is less than fifty-five (55) years of age, the allowance shall be reduced by three percent (3%) for each year the member is less than fifty-five (55).]

(c) [(d)] If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1970, and annually on July 1 thereafter the annual retirement allowance of each retired teacher and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%) of the retirement allowance in effect on July 1, 1970, or the date of retirement, whichever occurs later.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than sixty dollars ($60) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than fifty-five dollars ($55). The above minimums shall be effective July 1, 1974, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1976, the monthly retirement allowance of each member retired on or before June 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance for each year from the effective date of retirement of July 1, 1971, whichever is the later date, to July 1, 1976. Fractional years shall be calculated on a pro rata basis. The above percentages shall be based on an assumed minimum allowance of two hundred dollars ($200) per month and an assumed maximum of five hundred dollars ($500) per month of annuity in effect the previous month.

(6) Effective July 1, 1976, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to two dollars ($2) for each year of credited service prior to July 1, 1941. Each member who retired prior to July 1, 1977, and each recipient of a retirement option of such member shall receive an increase of two dollars ($2) per month for each year of credited service prior to July 1, 1941, to be effective July 1, 1977. No more than fifteen (15) years of service prior to July 1, 1941, shall be used in calculating these increases for each member.

Section 3. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to teachers retired for service [who are age fifty-five (55) or older], to teachers retired by reason of disability, and to the spouses and minor children of said retired teachers, coverage may also be extended to spouses and to minor children of teachers in active contributing status who are deceased prior to retirement if such teachers were [fifty-five (55) years of age or older and] eligible for service retirement at the time of death.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the teachers' retirement system to qualify for such coverage.

(3) The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

Senate Message

Announcing passage of **SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 17, SB 18, SB 19, SB 20, SB 67,** and **SB 69.**

Calendar

HB 68, HB 72, HB 91, HJR 15, and **SB 75** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Rules. Agrees.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Fitzgerald filed Floor Amendment No. 2 to **HB 31.**

Representative B. Richardson moved that the rules be suspended for the purpose of introducing and acting upon a Resolution. Agreed.

HCR 23, by Representative B. Richardson: A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

HCR 23, A CONCURRENT RESOLUTION relating to adjournment of the General Assembly.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That when the House of Representatives and the Senate do adjourn on Wednesday, January 18, 1978, they do so to convene again on Monday, January 23, 1978, at a time set by motion upon adjournment.

Representative B. Richardson moved the adoption of **HCR 23.**

On the roll call the vote was yeas 38-Adams, W. Allen, Arnold, Bendl, Benson, Brown, Bruce, Craddock, Davenport, Dawahare, DeFalaise, Donnermeyer, Foster, Guenthner, Holloway, Jones, Kenton, Layman, Little, Marcum, May, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Wells, Wright. Nays 33-J. Allen, Blandford, Boswell, Burnette, Carpenter, Cyrus, Deskins, Dietz, Dunn, Fitzgerald, Guy, Haering, Holbrook, Hurst, Imes, Isler, LeMaster, List, Mann, McBee, Priddy, Romines, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Yates.

HCR 23 was adopted.

Representative B. Richardson moved that when the House adjourns it do so by voice vote and until Monday, January 23, 1978, 4:00 p.m. Agreed.

Representative Burnette moved that the rules be suspended for the purpose of reporting and acting upon a Resolution. Agreed.

HR 22, A RESOLUTION to adjourn the House of Representatives in honor and memory of Vyron Mitchell.

WHEREAS, Vyron Mitchell devoted his entire life to the growth of his community; and

WHEREAS, throughout his career he was a credit to his profession, representing the publishing industry honestly and effectively; and

WHEREAS, as editor and publisher of the Fulton Daily Leader he covered the news honestly and completely with modern publishing techniques and equipment; and

WHEREAS, his lifelong record of community service through the Lions Club and the First United Methodist Church are worthy of notice and admiration;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Wednesday, January 18, 1978, it does so in honor and memory of Vyron Mitchell.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of Vyron Mitchell.

Representative Burnette moved the adoption of **HR 22.**

HR 22 was adopted by voice vote.

Representative Boswell moved that the rules be suspended for the purpose of making a motion in regard to co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that requests for co-sponsorship of Bills and Resolutions be approved for members who have received permission of the primary sponsors and have filed the proper forms with the Clerk. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Adams, **HB 179;** Representative W. Allen, **HB 155;** Representative Craddock, **HB 90, HR 12;** Representative Guenthner, **HB 179;** Representative Guy, **HB 143, HB 179;** Representative Haering, **HB 56, HB 120;** Representative Holbrook, **HB 168;** Representative LeMaster, **HR 12;** Representative Little, **HB 117;** Representative Riner, **HB 141;** Representative Romines, **HB 143;** Representative F. Smith, **HB 168;** Representative Worthington, **HB 83.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 31** be deferred and that it retain its position in Orders of the Day. Agreed.

Representative B. Richardson moved that consideration of **HB 11** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 12 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 12** be passed.

On the roll call the vote was yeas 74-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 12 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 12** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 83 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 83** be passed.

On the roll call the vote was yeas 72-Adams, J. Allen, W. Allen, Arnold, Bendl, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 83 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 83** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

HB 126 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 77-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, Lemaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 126 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 126** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 100 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 100** be passed.

On the roll call the vote was yeas 53-J. Allen, Bendl, Benson, Blandford, Boswell, Brown, Bruce, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Imes, Isler, Jones, Kenton, LeMaster, List, Little, Mann, Marcum, McBee, McKinney, Morris, Nett, Noe, Overstreet, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Weinberg, Wells, Wilborn, Worthington, Yates. Nays 15-Adams, W. Allen, Boatwright, Brinkley, Burnette, Fitzgerald, Guenthner, Hancock, Holbrook, Holloway, O'Brien, Patrick, Van Horn, White, Wright.

HB 100 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 100** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 155, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of the Committee Substitute for **HB 155.** Agreed.

Representative Jones moved that **HB 155**, by way of Committee Substitute, be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 155, by way of Committee Substitute, was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 155,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 125 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 68-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, Little, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smiith, R. Smith, Stone, Thomas, Turner, Weinberg, Wells, Williams, Worthington, Wright, Yates. Nays 8-Clarke, Deskins, Fitzgerald, List, Mann, Schmidt, Van Horn, Wilborn.

HB 125 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 125** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 12 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the following Floor Amendment No. 1 to **HR 12:**

Amend printed copy of **HR 12,** page 1, by inserting the word "CONCURRENT" before the word "RESOLUTION" in the title thereof; and in the resolving clause by inserting before the ":" the following: ", *the Senate concurring therein*".

Agreed.

Representative Bruce moved that **HR 12** as amended be passed.

On the roll call the vote was yeas 74-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McKinney, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HR 12 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HR 12** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 142 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 78-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 142 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 142** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 90, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved the adoption of the Committee Amendment to **HB 90.** Agreed.

Representative Wells moved that **HB 90** as amended be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 90 as amended was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 90** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees, and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 242, by Representative Hancock: AN ACT relating to municipal utilities.

HB 243, by Representatives Foster and Carpenter: AN ACT relating to historic motor vehicles.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Public Utilities and Transportation: **HB 66.**

Cities: **HB 81.**

Judiciary-Statutes: **HB 185.**

Report of Committees

The Committee on Rules reported **HB 5, HB 64, SB 75, HJR 15, HB 68, HB 72,** and **HB 91** with Committee Amendment attached thereto, have been posted for passage in Orders of the Day, January 23, 1978.

The Committee on Highways and Traffic Safety reported **HB 23, HB 24, HB 57,** and **HB 67** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 23, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.338 is amended to read as follows:

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication.

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

(a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line, but if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows:

1. The driver of a vehicle which is stopped as *required by subsection (3)(a)* [close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red or stop signal, and] with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right of way to pedestrians and other traffic lawfully proceeding through the intersection.

2. The driver of a vehicle which is stopped as required by subsection (3)(a) whose vehicle is in the left lane of a one-way highway with the intention of making a left turn onto the left lane of another one-way highway with the flow of traffic, may make such left turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right of way to pedestrians and other traffic lawfully proceeding through the intersection.

(b) Cities and counties may, by ordinance, and the bureau of highways may, by regulation, prohibit any such right *or left* turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.

(c) [(b)] Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

HB 24, AN ACT relating to the use of streets and highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Bureau" means the bureau of highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) [(2)] "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle and the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) [(3)] "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of not exceeding one thousand (1000) pounds.

(6) [(4)] "Operator" means the person in actual physical control of a vehicle.

(7) "Pedestrian" means any person afoot.

(8) "Right of way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(9) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(10) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(11) [(5)] "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity of over one thousand (1000) pounds.

(12) [(6)] "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(13) [(7)] "Sharp curve" means a curve of not less than thirty (30) degrees.

(14) [(8)] "State police" includes any agency for the enforcement of the highway laws established pursuant to law.

(15) [(9)] "Steep grade" means a grade of exceeding seven per cent (7%).

(16) [(10)] "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(17) [(11)] "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(18) [(12)] "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

Section 2. KRS 189.337 is amended to read as follows:

(1) As used in this *chapter* [section] "official traffic control devices" shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or dividing traffic.

(2) The bureau of highways shall promulgate and adopt a manual of standards and specifications for a uniform system of official traffic control devices for use upon all roads and streets. The manual and its future revisions and supplements shall be applicable to all roads and streets under the control of the bureau of highways or any county or incorporated city.

(3) All traffic control devices installed on any road or street after the adoption of the manual shall conform to the provisions thereof. Satisfactory operating traffic devices in use on the date of the adoption of the manual may continue to be used, however, if such devices are replaced or revised, they must be replaced or revised in conformance with the provisions of the manual.

Section 3. KRS 189.330 is amended to read as follows:

(1) When two (2) vehicles approach or enter an intersection from different roadways at approximately the same time, the operator of the vehicle on the left shall yield the right of way to the vehicle on the right.

(2) The right of way rule declared in subsection (1) is modified at highways and through intersections and as otherwise stated in this chapter.

(3) Preferential right of way may be indicated by stop signs or yield signs. The state highway commissioner with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one (1) or more entrances to such intersections.

(4) Except when directed to proceed by a police officer, every operator of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has view of approaching traffic on the intersecting roadway before entering it. After having stopped the operator shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such operator is moving across or within the intersection or junction of roadways.

(5) The operator of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it. After slowing and stopping, the operator shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such operator is moving across or within the intersection or junction of roadways. Provided, however, that if such an operator is involved in a collision with a vehicle in the intersection or junction of roadways after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield right of way.

(6) The operator of a vehicle intending to turn shall do so as follows:

(a) Right turns— both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway;

(b) Left turns— the operator of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable the left turn shall be made to the left of the center of the intersection and so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

(7) The department of transportation and local authorities in their respective jurisdictions may cause official traffic control devices to be placed and thereby require and direct that a different course from that specified in this section be traveled by turning vehicles and when such devices are so placed no operator shall turn a vehicle other than as directed and required by such devices.

(8) The operator of any vehicle shall not turn such vehicle so as to proceed in the opposite direction unless such movement can be made in safety without interfering with other traffic.

(9) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

[(1) When turning to the right at an intersection of highways, vehicles shall keep to the right of the center, and in turning to the left shall pass to the left of the center, keeping, however, as far to the right as is possible to do so and still pass to the left of the center. In this subsection "center" means the meeting point of the medial lines of the two (2) highways.

(2) Except as stated in subsections (3), (4), (5), (6) and (7), or where otherwise directed by a traffic officer, the operator of a vehicle shall yield the right of way at the intersection of their paths to a vehicle approaching from the right unless the vehicle approaching from the right is further from the point of intersection of their paths than the first named vehicle.

(3) A vehicle being operated upon any intercounty seat highway, designated state highway or boulevard, or any street which by ordinance has been designated as being equal in importance to a boulevard, need not yield the right of way to a vehicle approaching from the right where such a highway intersects another highway of lesser class. Any vehicle operated on the lesser class highway shall stop before entering a highway of a higher class, except as provided in subsection (6).

(4) Except as provided in subsection (6), the driver of a vehicle shall stop at the entrance to a through highway and shall yield the right of way to other vehicles which have entered the intersection from the through highway or which are approaching so closely on the highway as to constitute an immediate hazard, but the driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection on the through highway shall yield the right of way to the vehicle so proceeding into or across the through highway.

(5) The driver of a vehicle shall likewise stop in obedience to a stop sign at an intersection where a stop sign is erected at one or more entrances to the intersection although part of a through highway does not form the intersection. He shall proceed cautiously, yielding to vehicles not so obliged to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, but may then proceed.

(6) Whenever it is determined, upon the basis of an engineering and traffic investigation at an intersection, that the assignments of rights of way described in subsections (2), (3), (4) and (5) are more restrictive than necessary for the safe and efficient control of that intersection's vehicular and pedestrian movements, yield right of way signs may be installed on one or more of the intersection approaches for the purpose of assigning right of way. The driver of a vehicle, in obedience to a yield right of way sign shall yield right of way to vehicles and pedestrians not so obliged to yield or stop which are within the intersection or approaching so closely as to constitute an immediate hazard; but such driver, having so yielded, may proceed at such time as a safe interval occurs.]

(10) [(7)] The *operator* [driver] of a vehicle about to enter or cross a *roadway* [highway] from *any place other than another roadway* [a private road or driveway] shall yield the right of way to all vehicles approaching on the *roadway to be entered or crossed* [highway].

Section 4. KRS 189.338 is amended to read as follows:

Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication.

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(c) Unless otherwise directed by a pedestrian-control signal, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication.

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian-control signal, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication.

(a) Vehicular traffic facing a circular red signal alone shall stop at a clearly marked stop line, but if none, then before entering the crosswalk on the near side of the intersection, or if none, then before entering the intersection and shall remain standing until a green indication is shown, except as follows: the driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red or stop signal, and with the intention of making a right turn, may make such right turn, after stopping, unless an official sign has been erected prohibiting such movement, but shall yield the right of way to pedestrians and other traffic lawfully proceeding through the intersection. Cities and counties may, by ordinance, and the bureau of highways may, by regulation, prohibit any such right turn against a steady red signal at any intersection, which prohibition shall be effective when an official sign prohibiting such movement is erected at the intersection.

(b) Unless otherwise directed by a pedestrian-control signal, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(5) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:

(a) Flashing red (stop signal)— When a red lens is illuminated with rapid intermittent flashes, operators of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the operator has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) Flashing yellow (caution signal)— When a yellow lens is illuminated with rapid intermittent flashes, operators of vehicles may proceed through the intersection or past such signal only with caution.

Section 5. KRS 189.340 is amended to read as follows:

(1) Vehicles overtaking other vehicles proceeding in the same direction shall pass to the left of them and shall not again drive to the right until reasonably clear of those vehicles. The person operating or in charge of the overtaking vehicle shall sound his horn or other sound device before passing. Vehicles overtaking street cars may pass either to the right or left when so directed by a police officer, when on a one-way street or where the location of the tracks prevents compliance with this section, with regard for other traffic.

(2) The operator of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

(a) When the vehicle overtaken is making or about to make a left turn;

(b) Upon a roadway with unobstructed pavement of sufficient width for two (2) or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(3) The operator of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movements in safety. Such movement shall not be made by driving off the roadway unless passing vehicle comes to a complete stop and such movement may be made safely.

(4) [(2) The operator of a vehicle may overtake and pass upon the right of another vehicle which is making or is about to make a left turn. The operator of a vehicle may overtake, and, allowing sufficient clearance, pass another vehicle proceeding in the same direction upon the left or upon the right on a roadway with unobstructed pavement or sufficient width for four (4) or more lines of traffic when the movement can be made in safety. No person shall drive off the pavement or upon the shoulder of the roadway in overtaking or passing on the right.

(3)] No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless the left side is clearly visible and free of oncoming traffic for a sufficient distance ahead to permit overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction.

(5) [(4)] The commissioner of highways is hereby authorized to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be especially hazardous and may by appropriate signs or markings on the roadway indicate the beginning and end of such zones, and when such signs or markings are in place and clearly visible to an ordinary observant person, every driver of a vehicle shall obey the directions thereof.

(6) [(5)] Whenever any roadway has been divided into three (3) clearly marked lanes for travel the following additional rules shall apply:

(a) A vehicle shall be driven as nearly as may be practical entirely within a single lane and shall not be moved from that lane until the driver has first ascertained that the movement can be made with safety;

(b) A vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance, or in preparation for a left turn or where a center lane is at the time allocated exclusively to traffic moving in the direction in which the vehicle is proceeding and is signposted to give notice of the allocation;

(c) Official signs may be erected directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and operators of vehicles shall obey the directors of such signs.

(7) [(6)](a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having regard for the speed of the vehicle and the traffic upon and condition of the highway.

(b) The operator of any motor truck, semitrailer truck, bus or heavy construction equipment unit when traveling upon a highway outside of a business or residential district shall not follow within 250 feet of another such vehicle or equipment unit. This subsection shall not prevent overtaking and passing, nor shall it apply to any lane specially designated for use of motor trucks or semitrailer trucks, buses or heavy construction equipment units.

Section 6. KRS 189.380 is amended to read as follows:

(1) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

[(1) No person shall turn a vehicle from a direct course upon a highway unless and until such movement can be made with reasonable safety, and only after a clearly audible signal has been given by sounding the horn if any pedestrian shall be affected by the movement. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other vehicle may be affected by such movement.]

(2) A signal of the intention to turn right or left shall be given continuously for not less than the last one hundred (100) feet traveled by the vehicle before turning.

(3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the operator of any vehicle immediately in the rear when there is opportunity to give such signal.

(4) All signals required herein shall be given either by means of the hand and arm or by a signal lamp or lamps or a mechanical signal device, except that the operator of a motor vehicle used for the transportation of persons for hire with taxicabs excluded, the operator of a school or church bus, and the operator of any vehicle so constructed or loaded that a hand and arm signal would not be visible both to the front and rear of such vehicle shall indicate an intention to turn by use of a signal lamp or lamps or mechanical signal device and must indicate an intention to stop or suddenly decrease speed by illuminating at least one (1) red or yellow light with the word "Stop" on it on the rear of the vehicle.

(5) All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

(a) Left turn — hand and arm extended horizontally;

(b) Right turn — hand and arm extended upward;

(c) Stop or decrease speed — hand and arm extended downward.

SECTION 7. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) No vehicle shall be driven on the left side of the roadway under the following conditions:

(a) When approaching or upon the crest of a grade or a curve in the highway where the operator's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(b) When approaching within one hundred (100) feet of or traversing any intersection or railroad grade crossing;

(c) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct or tunnel.

(2) The foregoing limitations shall not apply upon a one way roadway, nor when an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard, nor to the operator of a vehicle turning left into or from an alley, private road or driveway.

Section 8. KRS 189.570 is amended to read as follows:

(1) Pedestrians shall *obey the instruction of any official* [be subject to] traffic control *devices* [signals] *specifically applicable to them, unless otherwise directed by a police officer or other officially designated persons* [at intersections].

(2) Pedestrians shall be subject to traffic and pedestrian control signals as provided in KRS 189.231 and 189.338.

(3) At all other places, pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this chapter.

(4) [(2) Except as provided in subsection (4), where] *When* traffic control signals are not in place or in operation the operator of a vehicle shall yield the right of way, *slowing down or stopping if need be to so*

yield, to a pedestrian crossing the roadway *upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger* [within any marked crosswalk or within any unmarked crosswalk at an intersection. If necessary in order to yield the right of way, the operator shall slow down or stop].

(5) [(3)] Whenever *any* [a] vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection, to permit a pedestrian to cross the roadway, the operator of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(6) [(4)](a) Every pedestrian crossing a roadway at *a* [any] point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing *a* [on the] roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway.

(c) Between adjacent intersections *within the city limits of every city* at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) Notwithstanding *other* [the] provisions of this subsection *or the provisions of any local ordinance,* every operator of a vehicle shall exercise due care to avoid colliding with any pedestrian *and* [upon any roadway,] shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing a child or *an obviously* [a] confused or incapacitated person upon a roadway.

(7) No vehicle shall at any time be driven through or within a safety zone.

(8) The operator of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

(9) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(10) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(11) [(5)] Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(12) Where a sidewalk is provided and its use is practicable, it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.

(13) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(14) [(6)] *Where neither a sidewalk nor a shoulder is available, any pedestrian* [Pedestrians shall at all times, when] walking on or along a highway *shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway shall walk only* [, walk] on the left side of the *roadway* [highway].

(15) Except as otherwise provided in this chapter, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(16) A pedestrian who is under the influence of alcohol or any kind of drug to a degree which renders himself a hazard shall not walk or be upon a highway except on a sidewalk.

(17) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate, or barrier, after a bridge operation signal indication has been given.

(18) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(19) [(7)] No person shall stand in a roadway for the purpose of soliciting a ride [from the operator of any private vehicle].

(20) No person shall stand on a roadway for the purpose of soliciting employment or business from the occupant of any vehicle.

(21) No person shall stand on a highway for the purpose of soliciting contributions unless such soliciting is designated by the presence of a traffic control device or warning signal or an emergency vehicle or public safety vehicle as defined in KRS 189.910 making use of the flashing, rotating or oscillating red, blue, or yellow lights on such devices or vehicles.

(22) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(23) Upon the immediate approach of an emergency vehicle equipped with, and operating, one or more flashing, rotating, or oscillating red or blue lights, visible under normal conditions from a distance of 500 feet to the front of such vehicle; and the operator is given audible signal by siren, exhaust whistle, or bell, every pedestrian shall yield the right of way to the emergency vehicle.

(24) This section shall not relieve the operator of an emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian.

Section 9. KRS 189.575 is amended to read as follows:

The operator of a vehicle shall yield the right of way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog.

[(1) It is unlawful for any person, unless totally or partially blind or otherwise incapacitated, while on any public street or highway, to carry in a raised or extended position a cane or walking stick which is white in color or white in color and tipped with red.

(2) Whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a guide dog or carrying in a raised or extended position a cane or walking stick which is white in color or white in color and tipped with red, the driver of every vehicle approaching the intersection, or place where such pedestrian is attempting to cross, shall bring his vehicle to a full stop before arriving at such intersection or place of crossing, and before proceeding shall take such precautions as may be necessary to avoid injuring such pedestrian.

(3) Nothing contained in this section shall be construed to deprive any totally or partially blind or otherwise incapacitated person, not carrying such a cane or walking stick or not being guided by a dog, of the rights and privileges conferred by law upon pedestrians crossing streets or highways, nor shall the failure of such totally or partially blind or otherwise incapacitated person to carry a cane or walking stick, or to be guided by a guide dog upon the streets, highways or sidewalks of this commonwealth, be held to constitute nor be evidence of contributory negligence.]

SECTION 10. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The operator of a vehicle shall yield the right of way to any public safety vehicle or pedestrian actually engaged in work upon a highway or within any highway construction or maintenance area indicated by official traffic control devices.

(2) The operator of a vehicle shall yield the right of way to any public safety vehicle obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of KRS 189.920(3).

Section 11. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, *Sections 7 and 10 of this Act,* shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

HB 57, AN ACT relating to historic motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the general assembly to recognize the special value of historic vehicles to the commonwealth, and also to recognize the historic vehicles, because of their limited use

and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "Historic Vehicle" shall mean all motor vehicles *twenty-five (25)* [thirty-five (35)] years old or older, which are used primarily for exhibition in shows, parades, tours and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the department of transportation. Such registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of a fee of twenty-five dollars ($25.00) and an application in accordance with regulations issued by the department of transportation, the secretary of transportation shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of transportation, will best advertise, popularize and promote the commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the department of transportation upon receipt of an application in accordance with regulations issued by the department and payment of a fee of two dollars ($2.00).

(6) The secretary of transportation may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

HB 67, AN ACT relating to motor vehicle operators' licenses and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a chemical test of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages. The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment. *The state shall provide, upon the request of law enforcement agencies, one-half (1/2) of the funds necessary to furnish and maintain the equipment.*

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a chemical test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the Department of Transportation, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages, that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, the department shall immediately serve notice upon said person in writing by mailing the notice to the person by certified or registered mail to the last known residence address of the person or if the address is unknown, to the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a nonresident his privilege to operate a motor vehicle within this state should not be revoked; or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical; but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary.

(4) For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the

person had been driving or was in actual physicial control of a motor vehicle in this state while under the influence of intoxicating beverages, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten days after the completion of the hearing shall order either: that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of not more than six months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified or registered mail. If the person shall fail to attend the show cause hearing without good cause shown the secretary shall forthwith revoke the person's license or privilege to operate a motor vehicle or deny issuance of a permit or operator's license.

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The department of transportation shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. The provisions of this section shall not apply to a person who refuses to submit to a chemical test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS 186.560(4) and rules and regulations adopted thereunder.

Section 2. To carry out the purposes of this Act, there is appropriated to the department of justice out of the general fund of the state treasury the sum of fifty thousand dollars ($50,000) for the 1978-1980 biennium.

The Committee Amendment to **HB 67** is as follows:

Amend printed copy of **HB 67**, page 1, line 20, by deleting the words "*and maintain*"; and on page 6, lines 10-13, by deleting same.

The Clerk announced a meeting of the Committee on Health and Welfare and the Committee on State Government on recess.

Representative B. Richardson moved that the rules be suspended for the purpose of making plans concerning business to be conducted after recess. Agreed.

Representative B. Richardson moved that no business be conducted following recess other than Report of Committee and Adjournment. Agreed.

Recess

Representative B. Richardson moved that the House recess for thirty minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

The Clerk announced the following schedule for Joint House and Senate Appropriations and Revenue Committee budget hearings:

Monday, January 23, 1978, 1:00 p.m., Minimum Foundation Program, Room A.

Tuesday, January 24, 1978, 9:30 a.m., Department of Education, Room A.

Wednesday, January 25, 1978, 9:30 a.m., Arts Cabinet, Room A.

Thursday, January 26, 1978, 10:30 a.m., Road Fund, Room A.

Senate Message

Announcing passage of **SB 42, SB 1, SB 31, SB 36, SB 36, SB 37, SB 38,** SB 40, **SB 41, SB 33,** and **HR 23.**

Report of Committees

The Committee on Health and Welfare reported **HB 16,** with Committee Amendment attached thereto, and **HB 99** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 16, AN ACT relating to persons who are incompetent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician *as defined in subsection (9) of this section* who is a bona fide member of the hospital's medical staff *as set forth in the bylaws of the institution or the clinical director of an institution as defined in subsection (4) of this section which provides care for the mentally ill*;

(2) "Department" means the Kentucky department for human resources;

(3) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing in-patient evaluation, care and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(4) "Hospital" means a state mental hospital or institution or other public or private hospital, institution, health care facility, or part thereof, other than designated forensic psychiatric facilities, licensed and approved by the Kentucky department for human resources as equipped to provide residential care and treatment for mentally ill or mentally retarded persons; and which is a part of, or has affiliation agreements with, the department for the care of such persons;

(5) "Immediate danger" or "immediate threat of danger to self or others" means substantial physical harm or immediate threat of substantial physical harm upon self or others, including actions which deprive self or others of the basic means of survival including provision for reasonable shelter, food or clothing;

(6) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill or a mentally retarded individual a realistic opportunity to improve his level of functioning, consistent with accepted professional practice in the least confining setting available;

(7) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior or emotional symptoms can be related to physiological, psychological and/or social factors;

(8) "Patient" means a person under observation, care or treatment in a hospital pursuant to the provisions of this chapter;

(9) "Physician" means a person licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(10) "Qualified mental health professional" means:

(a) a psychologist licensed under provisions of KRS Chapter 319;

(b) a licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons;

(c) a certified social worker licensed under the provisions of KRS Chapter 335 or accredited by the academy of certified social workers, with two (2) years of clinical experience with mentally ill persons;

(d) a psychologist with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319, with two (2) years of clinical experience with mentally ill persons; or

(e) other professional persons with similar training and experience who are qualified according to regulations promulgated by the secretary to participate in 72-hour involuntary hospitalization procedures under this chapter;

(11) "Residence" means legal residence as determined by applicable principles governing conflicts of laws;

(12) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill person or a mentally retarded person;

(13) "Secretary" means the secretary of the department for human resources.

Section 2. KRS 202B.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with *significant subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior* [significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period];

(2) "Mental retardation residential treatment center" means a residential treatment facility approved by the department for the evaluation, care and treatment of mentally retarded persons;

(3) "Qualified mental retardation professional" means:

(a) A psychologist licensed under the provisions of KRS Chapter 319, who has either one (1) year of specialized training for work with mentally retarded persons or one (1) year of clinical experience with mentally retarded persons;

(b) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one year of specialized training for work with mentally retarded persons;

(c) A certified social worker licensed under the provisions of KRS Chapter 335 or accredited by the academy of certified social workers, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one (1) year of specialized training for work with mentally retarded persons;

(d) A psychologist with a master's degree from an accredited institution who has been awarded a certificate of qualification by the Kentucky board of examiners of psychologists under the provisions of KRS Chapter 319, with two (2) years of clinical experience. At least one (1) year of such experience shall be with mentally retarded persons, or he shall have one (1) year of specialized training for work with mentally retarded persons; and

(e) Other professional persons with similar training and experience who are qualified according to regulations promulgated by the secretary to participate in 72-hour involuntary hospitalization procedures under this chapter.

(4) "Resident" means a person under care or treatment in a mental retardation residential treatment center pursuant to the provisions of this chapter;

(5) "Interdisciplinary staff team" means two (2) persons who are qualified mental retardation professionals from the following:

(a) A psychologist with at least a master's degree from an accredited college or university;

(b) A physician licensed under state law to practice medicine or osteopathy;

(c) A physical therapist who is licensed or granted exemption from licensure pursuant to KRS Chapter 327 or an occupational therapist;

(d) A speech pathologist or audiologist who is licensed or granted exemption from licensure pursuant to KRS Chapter 334;

(e) A social worker with a master of social work degree from an accredited college or university;

(f) An educator with a master's degree in education from an accredited college or university;

(g) A registered nurse; and

(h) A therapeutic recreation specialist with a bachelor's degree from an accredited college or university; and who in addition to the above possess specialized training or one (1) year of experience in treating or working with the mentally retarded.

(6) [(5)] All terms defined in KRS Chapter 202A shall have the same meaning when used in this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 202B IS CREATED TO READ AS FOLLOWS:

(1) Whenever the interdisciplinary staff team of a state institution for mentally retarded persons believes that the condition of a patient has sufficiently improved so that his release will not be injurious to him or detrimental to the public welfare, or that he is not a proper case for treatment at a state instituion, it may, on filing a written certificate with the department, release the person, unless the person is held on an order arising out of a criminal offense.

(2) Before making the certificate, the interdisciplinary staff team shall satisfy themselves by sufficient proof that friends or relations of the person are willing and financially able to receive and care for the person after his release if he is unable to care for himself. If the person to be released is indigent, he shall be returned to the county judge/executive of the county from which he was committed.

(3) The interdisciplinary staff team may provide in a written certificate that although the person shall be released he shall continue to be supervised by the department for human resources to assure that his mental, physical, social, educational and training needs are being adequately maintained. Upon recommendation by the interdisciplinary staff team that supervision of such person be continued the department shall so provide.

Section 4. KRS 203.505 is amended to read as follows:

In each restoration proceeding the court shall appoint a member of the bar to represent and protect the interest of the patient and said attorney shall be entitled to a fee of ten dollars ($10.00) for his services to be paid by the county in which the restoration proceeding is held, upon a certified copy of an order of allowance made by the court holding the proceeding. *An attorney employed by the department for human resources shall not be appointed as counsel for the patient in any restoration proceeding.*

Section 5. KRS 210.270 is amended to read as follows:

(1) The secretary for human resources *or his designee* is authorized to designate such private homes, private nursing homes and private institutions as he shall deem, after a thorough investigation of the personal and financial qualifications of the owners and tenants, the facilities and management, and the desirability of the location of such homes, to be suitable for the placement of patients, including the mentally ill and mentally handicapped and retarded of all ages, outside of the state mental hospitals. The secretary for human resources *or his designee* is authorized to prescribe, from time to time by regulation, standards for the selection and operation of private homes, private nursing homes and private institutions designated for the placement of patients. No home of an officer or employe of the department for human resources or of a member of his immediate family shall be designated for the placement of patients.

(2) Whenever the staff of a state mental hospital *or private physician* has determined that a patient who is not being held on an order rising out of a criminal offense has sufficiently improved and is not dangerous to himself or other persons, and that it would be in the patient's best interest to be placed outside of the hospital in a private home or private nursing home, the hospital *or private physician* shall so certify to the secretary of human resources *or his designee*, who may then authorize the patient to be transferred to a designated private home or private nursing home for care and custody for such length of time as the secretary for human resources deems advisable.

(3) If any money has been deposited for the patient with the staff of any private home, private nursing home or private institution, the staff shall send a written report to the patient and his parent, guardian or committee concerning the status of his account. If the deposited money is in the amount of less than five hundred dollars ($500) such written report shall be made annually or if more than five hundred dollars ($500) but less than one thousand dollars ($1,000) such written report shall be made semi-annually or if more than one thousand dollars ($1,000) such written report shall be made quarterly.

(4) [(3)] The provisions of KRS 210.275, 203.080, 210.310, and 210.320 shall apply to patients transferred to designated private homes and private nursing homes as though such patients were residing in a state mental hospital.

Section 6. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000).

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100).

(3) Any person who wilfully violates the provisions of KRS 210.270(3) shall be fined not more than five hundred dollars ($500).

(4) [(3)] Any person establishing, conducting, managing or operating any DATE Center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.

Section 7. KRS 387.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Person of unsound mind" means any person who is impaired by reason of mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, chronic intoxication, *a legally*

declared incompetent person or other cause to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person or to manage his estate.

(2) "Infant" or "minor" means any person who has not reached the age of eighteen (18).

(3) "Interested person" includes heirs, devisees, children, spouses, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a minor person of unsound mind. It also includes persons having priority for appointment as fiduciaries.

(4) "Visitor" is an officer, employe or special appointee of the court with no personal interest in the proceedings who is trained in law, nursing, social work or possessing other appropriate skills deemed necessary by the court to conduct an investigation in proceedings under this chapter.

Section 8. KRS 387.230 is amended to read as follows:

(1) The power and duty of the committee of a person of unsound mind shall *include but not be limited to:*

(a) The custody of the ward;

(b) The possession, care and management of the ward's property, both real and personal;

(c) The supervision of the ward's physical, mental and social well being;

(d) The provision for the necessary and proper maintenance of the ward out of the estate; and may include providing whatever is required by a physician in order to obtain needed medical care for such ward. This action, however, shall not make the committee or any person acting on behalf of the committee personally financially liable for expenses incurred by such medical care. [,in all respects, be the same as those of the guardian of a minor, except as to education.]

(2) The court may appoint a person other than the committee to take charge of the person of unsound mind when he is not confined in an *institution* [asylum], and may order his committee to make necessary provision for his support.

(3) Committees of persons of unsound mind shall receive the same compensation for their services, as such, as is provided in KRS 386.180 for trustees of estates.

The Committee Amendment to **HB 16** is as follows:

Amend printed copy of **HB 16,** page 10, lines 6 and 7, by deleting after the word "*send a*" the following words "*written report*" and insert in lieu thereof the words "*statement of income expenses and itemize same*";

and on page 10, lines 10, 12, and 14 by deleting after the word "*such*" the words "*written report*" and inserting in lieu thereof the words "*such itemized statement*".

HB 99, AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

(1) All proceedings under this chapter shall be deemed mental inquests which are non-adversary in nature, but in which the Commonwealth has an interest in ensuring that the proceedings are properly and expeditiously conducted, for the benefit and protection of both the respondent and society.

(2) In all proceedings under this chapter, it shall be the duty of the Commonwealth's attorney and county attorney to represent the interest of the Commonwealth and to assist the court in its inquiry by the presentation of evidence.

Section 2. KRS 203.014 is amended to read as follows:

All proceedings under this chapter shall be deemed mental inquests which are non-adversary in nature, but in which the Commonwealth has an interest in ensuring that the proceedings are properly and expeditiously conductd for the benefit and protection of both the defendant and society. The [In each inquest for incompetency, the] court shall appoint a member of the bar association to represent and protect the interests of the defendant, and the attorney for the Commonwealth *shall represent the interest of the Commonwealth and shall assist the court in its inquiry by the presentation of evidence* [also shall prevent the finding of any person to be incompetent who, in his opinion, is not such].

The Committee on State Government reported **HB 55, HB 119,** with Committee Amendment attached thereto, **HB 145, HB 180, HB 184,** and **HJR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 55, AN ACT relating to legislative jurisdiction over federal lands within the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

The general assembly finds that it is desirable that the Commonwealth of Kentucky and the United States exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over lands of the national park system of the United States department of the interior lying within the Commonwealth of Kentucky, and to that end this Act provides a mechanism for the adjustment of legislative jurisdiction.

SECTION 2. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

"Concurrent legislative jurisdiction for purposes of criminal law enforcement," as used in this Act, means the joint power of the United States and the Commonwealth of Kentucky to enact and enforce their own criminal laws, including those pertaining to motor vehicle traffic control, over the lands in question. Under concurrent legislative jurisdiction for purposes of criminal law enforcement, both the United States and the Commonwealth of Kentucky, or either of them, may take jurisdiction over a given criminal offense, according to the laws of the respective sovereign.

SECTION 3. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the United States shall desire to acquire concurrent legislative jurisdiction for purposes of criminal law enforcement over any lands within this Commonwealth which the United States has or shall have acquired for purposes of the establishment or extension of a unit of the national park system of the United States department of the interior and shall make application for that purpose, Kentucky cedes such measure of legislative jurisdiction, not exceeding that requested by the United States, as may be necessary to enable the United States and the Commonwealth of Kentucky to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over such lands. The governor is directed to negotiate with the United States, on behalf of the general assembly, the administrative details of any such cession, which details shall be included in the instrument of cession.

(2) Said application on behalf of the United States shall be accompanied by an accurate description of the lands over which such concurrent legislative jurisdiction for purposes of criminal law enforcement is desired.

(3) Said cession of legislative jurisdiction shall become effective when the instrument of cession is signed by the governor and the acceptance of jurisdiction by the United States is indicated in writing upon the instrument of cession by the United States secretary of the interior or his designee and entered upon the executive journal. In the event the governor is of the opinion that the cession of legislative jurisdiction embodied in any proposed instrument of cession exceeds the measure of legislative jurisdiction necessary to enable the United States and the Commonwealth of Kentucky to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over the lands in question, he shall not sign the instrument of cession, and the cession shall not become effective until the general assembly, at its next session, shall approve same.

SECTION 4. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

(1) The powers conferred by this Act are solely to enable the Commonwealth and the United States to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over United States department of the interior national park system lands in Kentucky. No other legislative jurisdiction is ceded by this Act, and there are specifically reserved over any lands as to which any legislative jurisdiction may be ceded pursuant to this Act:

(a) The entire legislative jurisdiction with respect to taxation of the Commonwealth, and of each state agency, county, urban county government, city, special district and other political subdivision

(b) The entire legislative jurisdiction of the Commonwealth with respect to marriage, divorce, annulment, adoption, the commitment or other civil disposition of the mentally incompetent, and the descent and distribution of property; and

(c) The power to execute any process, civil or criminal, issued under the authority of the Commonwealth.

(2) No person residing upon such lands shall be deprived of any civil or political rights by reason of the cession of such legislative jurisdiction to the United States.

SECTION 5. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the United States, in order to enable the Commonwealth and the United States to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement, tenders to the Commonweatlh a

relinquishment of all or part of the legislative jurisdiction theretofore acquired by it over lands within this Commonwealth for purposes of the establishment or extension of a unit of the national park system of the United States department of the interior, Kentucky accepts the legislative jurisdiction so relinquished.

(2) The acceptance of such relinquishment of jurisdiction shall be indicated by a writing signed by the governor addressed to the United States secretary of the interior, or as the laws of the United States may otherwise provide, and such acceptance shall be effective when said writing is deposited in the United States mails or, if it is not mailed, when it is personally handed to the secretary of the interior or his designee.

(3) The governor shall negotiate with the United States, on behalf of the general assembly, the administrative details of any relinquishment of jurisdiction by the United States under the provisions of this Act. In the event the governor is of the opinion that the relinquishment of legislative jurisdiction tendered by the United States exceeds that necessary to enable the Commonwealth and the United States to exercise concurrent legislative jurisdiction for purposes of criminal law enforcement over the lands in question, or commits the Commonwealth or any of its political subdivisions to expenses or obligations beyond those necessarily entailed by the exercise of concurrent legislative jurisdiction for purposes of criminal law enforcement over the lands in question, the governor shall not indicate the acceptance of such relinquishment of jurisdiction, and such acceptance shall not become effective until the general assembly, at its next session, shall approve same.

SECTION 6. A NEW SECTION OF KRS CHAPTER 3 IS CREATED TO READ AS FOLLOWS:

Whenever an acceptance or cession of legislative jurisdiction is sought by the United States pursuant to the terms of this Act, the governor, prior to negotiating the administrative details of any such acceptance or cession, shall consult with the appropriate local authorities within whose territorial jurisdictions the lands in question lie, including, but not limited to the county judges/executive, the mayors and the sheriffs.

Section 7. KRS 3.090 is amended to read as follows:

Except as otherwise provided in this Act, whenever the United States, or any agency thereof, shall request the Commonwealth to cede jurisdiction over any area, it shall be the duty of the governor to transmit such request to the next session of the general assembly for such action as it may deem proper.

Section 8. KRS 3.110 is amended to read as follows:

Except as otherwise provided in this Act, the Commonwealth consents to any retrocession by the United States of lands within its geographical boundaries whenever the United States shall have ceased to exercise exclusive or special jurisdiction over such lands. Inter alia, the conveyance of lands to private owners shall be deemed to constitute a retrocession of jurisdiction.

HB 119, AN ACT relating to crime victims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical injury to or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) *Except as to victims sixty-five (65) years of age or older,* any award made pursuant to this chapter shall exclude therefrom the initial one hundred dollars ($100) of losses incurred and shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed one hundred fifty dollars ($150) for each week of lost earnings or support. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct the award shall be apportioned by the board among the claimants.

(5) Any award made under this chapter shall not exceed fifteen thousand dollars ($15,000).

The Committee Amendment to **HB 119** is as follows:

Amend printed copy of **HB 119,** page 1, lines 19 and 20, by deleting the phrase "*Except as to victims sixty-five (65) years of age or older,*"; and by changing "any" to "Any";

and on page 2, line 6, by adding the following after "injury.":

"*Provided, however, that any award made pursuant to this chapter to a victim sixty-five (65) years of age or older shall not exclude therefrom the initial one hundred dollars ($100) of losses incurred.*"

HB 145, AN ACT relating to members of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.800 is amended to read as follows:

(1) No legislator shall accept any appointment as an officer or employe of the Commonwealth or any state agency except as provided in *subsection (2) of this section and in* Section 165 of the Constitution unless he shall have first resigned his membership in the general assembly, and it shall be unlawful for the state treasurer to pay any salary by reason of such appointment until the resignation has been received by the presiding officer of the house of which he is a member.

(2) *Notwithstanding the provisions of subsection (1) of this section, a legislator may serve on the faculty of any of the state universities or community colleges without resigning his membership in the general assembly.*

(3) No legislator shall, while in the discharge of the duties of his office, become intoxicated by the use of spiritous, vinous or malt liquors. Any legislator who is unable, incompetent or disqualified to discharge any of the duties of his office because of the use of spiritous, vinous or malt liquors shall be deemed to have violated this subsection.

(4) [(3)] No legislator shall engage in conduct which constitutes a breach of public trust.

Section 2. Whereas, in order that any member of the general assembly who comes within the purview of the provisions of this Act may continue his employment, an emergency is declared to exist, and this Act shall become effective upon its passage and approval of the governor.

HB 180, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the 11th day of November

(Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the negotiable instrument law or any other law of the commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

(4) Notwithstanding the provisions of subsection (1) of this section, the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), and the third Monday in February (Washington's Birthday) shall be considered legal holidays except for the general assembly when it is meeting in regular session, and, in lieu thereof, the general assembly, by concurrent resolution, shall declare one (1) day in January and one (1) day in February as legislative holidays only, for purposes of Section 42 of the Kentucky Constitution.

Section 2. Whereas the general assembly is in session now and subject to the aforementioned provisions, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 184, AN ACT relating to compensation of General Assembly employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.230 is amended to read as follows:

Employes of the general assembly shall receive a per diem as follows: chief clerk, *fifty-five* [fifty] dollars *($55)* [($50)]; assistant clerk, *forty-seven* [forty-two] dollars *($47)* [($42)]; enrolling clerk, *thirty-seven* [thirty-two] dollars *($37)* [($32)]; sergeant-at-arms, *thirty-five* [thirty] dollars *($35)* [($30)]; doorkeeper, *twenty-nine* [twenty-four] dollars *($29)* [($24)]; janitors, *twenty-five* [twenty] dollars *($25)* [($20)]; cloakroom keeper, *twenty-five* [twenty] dollars *($25)* [($20)]; pages, *twelve* [ten] dollars *($12)* [($10)] each.

Section 2. The provisions of this Act relative to the compensation of the employes of the House and Senate shall be effective and shall apply to the present session of the General Assembly and the per diem shall be paid for the one thousand nine hundred and seventy-eight session to said employes in the amounts named in section one hereof, beginning January third, one thousand nine hundred and seventy-eight, provided, that there shall be deducted from the amount due said employes the sum already paid them for services rendered during the one thousand nine hundred and seventy-eight session.

Section 3. Whereas, the employes of the House and Senate have rendered faithful and efficient services during the present session of the Legislature and their pay has been entirely inadequate an emergency is therefore declared to exist and this law shall become effective immediately upon its enactment by the General Assembly and approval by the Governor.

HJR 5, A JOINT RESOLUTION designating Agnes O'Rear as a Poet Laureate.

WHEREAS, the Commonwealth of Kentucky has a rich history of contributions to the realm of American literature; and

WHEREAS, the basis of this heritage is the fine support the Commonwealth has provided for its artists; and

WHEREAS, Agnes O'Rear, valued citizen of Frankfort, has advanced the wealth of Kentucky poetry with her books and her "Poem to Kentucky"; and

WHEREAS, Agnes O'Rear through her works, has created for future citizens a legacy of what it means to be a proud Kentuckian;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That Agnes O'Rear, 107 Thistle Road, Frankfort, Kentucky, be designated a Poet Laureate for the Commonwealth of Kentucky.

Section 2. That a copy of this resolution be sent by the clerk to Agnes O'Rear.

Adjournment

Representative Worthington moved that the House adjourn until 4:00 p.m., Monday, January 23, 1978.

The House adjourned by voice vote.

MONDAY, JANUARY 23, 1978

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John Hunt, South Frankfort Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Priddy, W. Allen, and Stewart.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House.

Representative Brinkley moved that the reading of the Journal of January 18, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 244, by Representative B. Richardson: AN ACT relating to motor vehicle registration.

HB 245, by Representative B. Richardson: AN ACT relating to blasting.

HB 246, by Representative B. Richardson: AN ACT relating to crisis assistance.

HB 247, by Representative Fitzgerald: AN ACT relating to county clerks.

HB 248, by Representatives Bendl and Hancock: AN ACT relating to tax credits.

HB 249, by Representative Overstreet: AN ACT relating to dairy product marketing.

HB 250, by Representative Pearman: AN ACT relating to architects.

HB 251, by Representative Burch: AN ACT relating to products liability.

HB 252, by Representatives DeMarcus, Davenport, Marcum, Plummer and R. Smith: AN ACT relating to absentee voting.

HB 253, by Representative Fitzgerald: AN ACT relating to litter.

HJR 24, by Representatives Benson, Dunn, Bennett, Bendl, Blandford, Craddock, Davenport, Dawahare, DeFalaise, Dietz, Gay, Gray, Haering, Hines, Holloway, Hurst, Imes, Kleier, Mann, McNutt, Morris, Petty, Priddy, Riner, Romines, Siemens, R. Smith, Turner and Yates: A JOINT RESOLUTION directing the University of Louisville, and the University of Kentucky to play each other in football and basketball.

HR 25, by Representative B. Richardson: A RESOLUTION directing appointment of a committee to wait upon the Chief Justice.

HCR 26, by Representatives LeMaster and Sale: A CONCURRENT RESOLUTION in memory of Coach Adolph Rupp.

Representative Adams filed Floor Amendment No. 1 to **SB 69.**

Representative Carpenter filed Floor Amendment No. 1 to **HB 5.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 240, HB 241, HR 21, SB 1.**

Banking and Insurance: **SB 67.**

Business Organizations and Professions: **HB 239.**

Cities: **HB 237, HB 238, HB 242, SB 37.**

Education: **SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 31, SB 33, SB 36, SB 38, SB 40, SB 41, SB 42.**

Elections and Constitutional Amendments: **SB 17.**

Health and Welfare: **HB 233.**

Highways and Traffic Safety: **HB 234.**

Judiciary-Statutes: **HB 236, SB 69.**

Labor and Industry: **HB 235.**

Public Utilities and Transportation: **HB 243.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 88, HB 89, HB 114, HB 147.**

Counties and Special Districts: **HB 29.**

Elections and Constitutional Amendments: **HB 135, HB 165, HB 166, HB 187.**

Public Utilities and Transportation: **HB 215.**

Cities: **HB 111.**

Health and Welfare: **HB 179.**

Calendar

HB 113, HB 23, HB 24, HB 57, HB 67, HB 16, HB 99, HB 55, HB 119, HB 145, HB 180, HB 184, and **HJR 5** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson announced a meeting of the Committee Chairmen following meeting of the Committee on Rules.

Representative B. Richardson announced the Committee on Rules will meet 5 minutes following adjournment each day.

Representative B. Richardson moved that the rules be suspended for the purpose of acting upon a Resolution. Agreed.

Representative B. Richardson moved the adoption of the following **HR 25:**

HB 25, AN ACT directing appointment of a committee to wait upon the Chief Justice.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Chief Justice of the Supreme Court, and inform him that the General Assembly is prepared to receive any message he may care to deliver.

HR 25 was adopted by voice vote.

The Speaker appointed the following members to the Committee to wait upon Chief Justice John S. Palmore of the Supreme Court of Kentucky: Representatives Lindsay, Beshear, LeMaster, Siemens, Tobin, DeFalaise and Holbrook.

Representative Tobin moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 254, by Representative Tobin: AN ACT relating to operator's licenses.

HB 255, by Representative Fitzgerald: AN ACT relating to emergency vehicles.

HB 256, by Representative Imes: AN ACT relating to the Kentucky Revised Statutes.

Motions, Petitions and Communications (Cont.)

Representative Boswell moved that requests for co-sponsorship of Bills and Resolutions be approved for members who have received permission of the primary sponsors and have filed the proper forms with the Clerk. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Fitzgerald, **HB 220;** Representative Holbrook, **HB 5;** Representative Yates; **HB 179.**

Representative Imes moved that **HJR 13** be taken from the Committee on State Government and reassigned to the Committee on Cities. Agreed.

Orders of the Day

SB 75 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 82-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Layman, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Turner, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 11-Blythe, Bruce, Deskins, Fitzgerald, Imes, Jones, LeMaster, Little, Morris, Trevey, Van Horn.

SB 75 was passed the the title agreed to.

Representative B. Richardson moved that the vote by which **SB 75** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HJR 15 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 93-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HJR 15 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HJR 15** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 31, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of Committee Amendment No. 1 to **HB 31.** Agreed.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 2 to **HB 31.**

Amend printed copy of **HB 31,** page 2, line 5, after the word "vote" insert the following: "and the county attorney, in the event the fiscal court provides him a salary,"

Agreed.

Representative Deskins moved the adoption of the following Floor amendment No. 1 to **HB 31:**

Amend printed copy of **HB 31,** page 3, line 4, after the word "exceed" insert the following: "the maximum compensation allowable under KRS 64.527" and bracket before the word "two" and after the word "month"

Agreed.

Representative Lindsay moved that **HB 31,** as amended, be passed.

On the roll call the vote was yeas 76-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Plummer, Richards, B. Richardson, Riner, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Williams, Wright, Yates. Nays 19-J. Allen, Blandford, Burnette, Crupper, DeMarcus, Holbrook, Hurst, Imes, Layman, Marcum, McBee, Overstreet, Patrick, Petty, Rattliff, P. Richardson, Schmidt, Wilborn, Worthington.

HB 31, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 31,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 11 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 11** be passed.

On the roll call the vote was yeas 79-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Clapp, Clarke, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Little, Mann, May, Maynard, McBee, McNutt, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Rattliff, Richards, B.

Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 16-Beshear, Blythe, Bruce, Carpenter, DeFalaise, DeMarcus, Haering, List, Marcum, McKinney, Morris, Patrick, R. Smith, Trevey, Turner, White.

HB 11 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 11** was passed be reconsidered and said motion be postponed indefinitely.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 75** had been examined and found correctly enrolled. Said bill read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (Cont.)

Representative B. Richardson moved that consideration of **HB 5** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 64 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Robinson moved that **HB 64** be passed.

On the roll call the vote was yeas 95-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holoway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 64 was passed and the title agreed to.

Representative Robinson moved that the vote by which **HB 64** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 68** and **HB 72** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 91, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 91.** Agreed.

Representative Donnermeyer moved that **HB 91,** as amended, be passed.

On the roll call the vote was yeas 21-Benson, Blythe, Bruce, Davenport, DeFalaise, Dietz, Donnermeyer, Foster, Gay, Guenthner, Hancock, Holbrook, Hurst, Kenton, Morris, O'Brien, Sale, Schmidt, R. Smith, Trevey, Wells. Nays 59-Adams, J. Allen, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Clapp, Clarke, Craddock, Cyrus, Dawahare, Deskins, Dunn, Fitzgerald, Gray, Guy, Head, Hines, Imes, Isler, Johnson, Jones, Kidd, Layman, LeMaster, List, Little, Marcum, May, McBee, McKinney, McNutt, Nett, Noe, Overstreet, Pearman, Petty, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates.

HB 91, as amended, was defeated.

Representative Kleier moved that the rules be suspended for Posting of Bills and Resolutions. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 112.**

Public Utilities and Transportation: **HB 181.**

Health and Welfare: **HB 18, HB 122, HB 132, HB 158.**

Education: **HB 167, HB 168.**

State Government: **HB 214, HB 161.**

Judiciary-Statutes: **SB 69.**

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, January 24, 1978.

On the roll call the vote was yeas 61-Adams, Arnold, Bendl, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kleier, Layman, List, Marcum, May, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington. Nays 9-DeFalaise, Deskins, Fitzgerald, Gray, Guenthner, Imes, Mann, P. Richardson, Siemens.

The motion to adjourn was adopted.

TUESDAY, JANUARY 24, 1978

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John Hunt, South Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Gay, Hines and Stewart.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 23, 1978, be dispensed with and the same approved. Agreed.

Representative Lindsay, Chairman of the Committee to wait upon Chief Justice John S. Palmore, reported the Chief Justice would address the Joint Session at 2:30 p.m.

Representative B. Richardson moved that the House resolve itself into a Committee of the Whole to go into Joint Session with the Senate. Agreed.

The Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, and the members of the Senate entered upon the floor of the House.

The Speaker recognized the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate.

Joint Session

The Speaker vacated the Chair, whereupon the Honorable Thelma L. Stovall, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative B. Richardson moved that the House and Senate resolve into Joint Session for the purpose of hearing the State of the Judicary Address by Chief Justice John S. Palmore, Supreme Court of Kentucky. Agreed.

Representative B. Richardson moved that the Joint Session of the House and Senate dispense with the call of the roll. Agreed.

Prayer by Senator Gene Huff, Pentecostal Church, London, Kentucky.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Chief Justice and escort him to the House to address the Joint Session, appeared with Chief Justice Palmore.

Lieutenant Governor Thelma L. Stovall introduced Chief Justice John S. Palmore.

Justice Palmore addressed the Joint Session of the General Assembly, as follows:

STATE OF THE JUDICIARY ADDRESS

To the General Assembly of Kentucky

By John S. Palmore, Chief Justice
Commonwealth of Kentucky

January 24, 1978

INTRODUCTION

I am here at your kind invitation to report on the state of the judiciary. It is a rare privilege, and I accept it with humility.

The Judicial Amendment of the Constitution, adopted just 26 months ago, precipitated the greatest political upheaval the Commonwealth has experienced in this century. The stress that was thrust upon the General Assembly was tremendous, and the manner in which you responded to it bears witness to the strength of our government and to the responsibility of this body. Not all problems have been resolved, of course. They never are. But today, I am happy to say, the judiciary of this Commonwealth is in a far better state of health, vitality and good order than it ever has been before, and certainly better than many predicted it would be.

In the trying hours, days and months during which my predecessor in office and I, our Administrative Director and his staff, and the other members of the Supreme Court have labored to accomplish an orderly transition from the old to the new court system, our spirit has been sustained by the constant cooperation and sympathetic consideration given to us by Governor Carroll and his staff and by the Judiciary-Courts Committees of these two legislative houses. In like manner the Crime Commission and the Department of Justice have been most liberal with their time, their efforts and their expertise in helping us to get funding from available federal grants. We are grateful also to the office of Policy and Management for its assistance and patience in the unenviable task of working out our budgetary problems.

It may come as something of a surprise for some to hear me say, and I say it with a feeling of real pleasure, that in spite of the annoyance and uneasiness felt by many county officials who had opposed the Judicial Amendment and were disappointed no less than they were surprised by its passage, by and large they have given us their wholehearted cooperation in accomplishing the transition. Ordinarily, a person is not elected to an important county or city office unless he has the recognized qualities of a good citizen. I have been confident all along that ultimately those qualities would prevail in this instance, and indeed they have.

THE JUDICIAL AMENDMENT

The amendment established two new courts, the District Court and the Court of Appeals. It consolidated all of the courts into one unified Court of Justice. It provided a Retirement and Removal Commission, replacing the unworkable, never-used process of impeachment, for the enforcement of discipline and good behavior on the part of all members of the judiciary. It ended the trial of cases by judges who were not qualified by training in the complicated and increasingly technical subject of law, and who therefore were not licensed to practice that profession. It forbade any judge to carry on a law practice. Most importantly of all, by providing for the election of all judges on a nonpartisan basis it took the judiciary out of party politics, insofar as that is possible in the world of human beings.

THE SUPREME COURT

At the beginning of 1976 the Supreme Court, then called the Court of Appeals, consisted of seven judges and four commissioners. During the calendar year 1975 these eleven members had handled 1150 cases, 857 of which were by opinions disposing of original actions and appealed cases on their merits, leaving at the end of that year a backlog of 770 pending appeals ready for disposition. Advanced cases, notably criminal and workmen's compensation appeals, were being handled on a current basis, which meant that those of the 770 civil appeals that were classified as routine, or nonadvanced, had been awaiting disposition for up to two years. Moreover, the quality of workmanship borne of the haste of writing such a large volume of opinions was something less than desired. Oral arguments were then a rare luxury, simply because we could not indulge the time.

Today, oral arguments in the Supreme Court are the rule rather than the exception. During 1977 it made final dispositions of 726 cases, including 430 written opinions. Its work is current, and there is virtually no backlog of cases submitted and ready to be assigned for hearing. This has been made possible by the Court of Appeals.

One of the ways in which the Court of Appeals has alleviated the case-inventory of the Supreme Court is that we have been able to screen the backlog of cases on hand in the Supreme Court when the Court of Appeals became fully operative in late 1976 and transfer to that Court the routine cases that otherwise would have required disposition by the Supreme Court. From the latter part of 1976 through December of 1977 a total of 541 appeals were so transferred. This division of work was, of course, a one-time procedure and should not recur.

The other way in which the Court of Appeals has relieved the burden of the Supreme Court was made possible by a provision of the Judicial Amendment (Section 110(2)(b) of the Constitution) that enables the Supreme Court to fix the scope of its own jurisdiction except for criminal cases involving the death penalty or imprisonment for 20 years or more, which the Constitution specifies may be appealed to the Supreme Court as a matter of right. By rule of court, the acceptance of all other appeals is at the discretion of the Supreme Court. This discretion is exercised through two avenues. Upon a showing that a case is of great and immediate public importance an appeal may be granted directly from the Circuit Court to the Supreme Court, by-passing the Court of Appeals. Other appeals from the Circuit Court are heard by the Court of Appeals, and the second avenue by which the Supreme Court exercises its jurisdictional choice is through the granting of motions for discretionary review of decisions made by the Court of Appeals in these cases.

During 1977 the number of original actions and appeals as a matter of right filed in the Supreme Court was 126. 24 motions for transfer were filed and five were granted. 164 motions for discretionary review were filed and 34 were granted. The spread between these numbers and the total of 430 opinions issued in 1977, reflects the final clean-up of our backlog. With that behind us, we expect to be able to accept more transfers, grant more discretionary reviews, and write better opinions.

THE COURT OF APPEALS

From late 1976, when it became organized and housed and was able to move into high gear, until the end of 1977 the Court of Appeals had received 2,787 cases, including those that had been transferred to it out of the Supreme Court's backlog, and had disposed of 1,578 of those cases, leaving an inventory of 1,209 cases pending at the beginning of this year. Of these 1,209 cases 1,015 were in process of being briefed and 194 were under submission and ready to be heard. At the present time the Court of Appeals is deciding between 100 and 135 cases per month, which means that it is very nearly current in the handling of its work.

Whatever words of praise I might choose in describing the performance of the Court of Appeals would be inadequate. Its membership of 14 judges includes the very highest caliber of lawyers and is under the direction of an able chief judge. Its practice of hearing the argument of its cases in the local communities throughout the state has been of great convenience to the litigants and their lawyers and has added to the popularity it has justly gained through the quality of its work. The people of Kentucky have every reason to be proud of their new Court of Appeals.

THE CIRCUIT COURT

The Circuit Court consists of 87 judges and is divided into 56 circuits. The average annual caseload per judge in these 56 circuits ranges from about 500 in some to more than 1400 in others. However, the Judicial Amendment (Section 110(5)(b)) provides flexibility in adjusting these disparities by authorizing the Chief Justice to assign any justice or judge, active or retired, to sit temporarily in any court other than the Supreme Court. During 1977 there were 473 of these special assignments, 105 of which were filled by retired judges.

The extent to which temporary assignments can be successfully used in balancing caseloads is now being tested through the operation of two pilot administrative regions, each consisting of several circuits under the supervision of one circuit judge elected by the other circuit judges in the region as the administrative judge of that region. The administrative judge will endeavor to equalize the workload of the various circuit judges in his region by assigning those with lighter caseloads to assist temporarily in circuits with caseloads in excess of what the judges for those circuits are able to handle without unreasonable delay. For this purpose the Chief Justice has authorized the Administrative Judges to make such assignments. The pilot regions are receiving staff support from the Administrative Office of the Courts.

A suggestion by the Judicial Council that certain of the judicial circuits be redistricted resulted in serious opposition in the affected localities. As usual in such instances, alternative proposals for the addition of new judges surfaced. Under the Judicial Amendment (Section 112(2) and (3)) any change in districts or in the number of judges must first be certified by the Supreme Court as necessary, and at the present moment we are not able to say that 87 judges are not enough to handle the total caseload of the Circuit Court. We do not know, for example, what impact the District Court will have on the volume of work in the Circuit Court. When the General Assembly convenes in 1980 we will have that information, and we will have also the benefit of having observed the experimental operation of the pilot regions. At this time, therefore, the Supreme Court does not plan to recommend any changes in the territorial arrangement of the judicial circuits or in the number of circuit judges.

THE DISTRICT COURT

The real moment of truth for the new judicial system arrived just three weeks ago, with the physical launching of the District Court. Fortunately, as in the instance of the Court of Appeals, the men and women elected as the first judges of this court proved to be competent lawyers, several with extensive experience. Fortunately also, both they and the personnel of the circuit clerks had availed themselves of the assistance and training programs arranged for them by the Administrative Office of the Courts. And so it came to pass that instead of chaos we saw a surprisingly uneventful changing of the guard. There were, of course, some exceptions. One of the judges elected in November decided at the end of December that he did not want the job after all. But the system had been soundly designed to meet such exigencies, and the District Court in that judicial district was opened and held by the circuit judge until someone qualified and willing to accept the office could be found. On last Wednesday the Judicial Nominating Commission for that district met and made its recommendations to the Governor, the Governor promptly made his appointment,and the new district judge assumed his duties. Our complement of 113 district judges is now filled.

Until we have had more time in which to observe the operation of the District Courts we cannot determine whether 113 is a sufficient number of judges or whether the use of trial commissioners for the 56 counties in which no district judge resides will prove satisfactory, nor will we be able to determine accurately the number of trial commissioners actually needed for those counties in which a district judge does reside. At the present time we have 56 trial commissioners for counties in which there is no resident district judge and 8 others in counties that do have resident district judges but have caseloads or geographic problems that justify the appointment of trial commissioners.

One district judge, as you all know, opened court in a tent. Now, however, he is in the county court house. Whether he occupied the tent by preference or by necessity I am not certain, but from the standpoint of the media it surely must have added a little life to the party. In any event, it is in this matter of court facilities that our most pressing need remains unsatisfied.

Many of our district judges are holding court in county court houses as a matter of sufferance. That is, they are there temporarily and without protection of any contractual arrangement. Others are housed in private facilities for which rent is being paid. In some instances we have been prevented from occupying buildings because they do not comply with the requirements of the state fire marshal. At best this is a dismal picture.

LEGISLATIVE NEEDS

Prior to the statutory amendments that were occasioned by the Judicial Amendment, the various county and city governments bore the cost of housing the courts. In return, they received the net revenues from fines and forfeitures collected in their local courts. Presumably, House Bill 16 (KRS 24A.190 et seq.), the "net court revenue" act, was intended substantially to replace these revenues. At the same time, House Bill 23 (KRS 26A.100) required cities and counties to provide space for the circuit and district courts insofar as it was "reasonably available" without disrupting their local governmental operations. From all reports, however,it appears that the revenues being received by the local communities pursuant to the calculation of "net" revenues under the 1976 legislation has not come up to local expectations. The resulting dissatisfaction in turn has given rise to an understandable reluctance on the part of many local governmental bodies to provide, at what they consider to be a loss to the local taxpayers, facilities that are adequate and necessary to an efficient functioning of the courts. To remedy that vital problem, the Supreme Court, and through it the Judicial Council, have recommended to the Joint Subcommittees of the House and Senate on Appropriations and Revenue and Judiciary-Courts, and to the Governor, that legislation be enacted at this session providing for the payment of a fair rental to each local governmental unit, based upon the costs incurred by that governmental unit in providing and maintaining the facilities used by the courts. I am pleased that the Governor in his recommended budget has made allowance for such a plan. It may be that financial information that is now being compiled will necessitate an adjustment of the amount required for that purpose. In any event, it is a matter that calls for your careful attention.

The Supreme Court now occupies the second floor of the State Capitol. Its administrative office and the Court of Appeals are housed in the Bush Building, across the river in downtown Frankfort. Obviously they should all be located together, and this need has been recognized by the General Assembly through the appropriaton of funds for that purpose at a previous session. Plans are now being made by the executive branch for the construction of a suitable building in Frankfort for these two courts.

The subject of legislative needs embraces other problems of the District Court. At the present time, although Section 46 of House Bill 23 (KRS 30A.300) authorized their employment, there is no budgetary support for secretaries for the district judges except that the circuit clerks, who serve also as clerks for the district court, are required to furnish such clerical aid as is necessary. While the circuit clerks and their personnel thus far have been most cooperative and helpful, it needs no feat of the imagination to demonstrate that such a duality of control and supervision is ambiguous at best and conducive to conflict and disharmony at worst. We do not need a secretary for each and every district judge, but in each judicial district at least one secretary should be under the exclusive control of the district court and should be so budgeted. The offices of the circuit clerks, which formerly were independent, are now within the judicial personnel system and represent about 40% of our total budget. Needless to say, we respect and appreciate these fine public servants and are proud to have them in our judicial family. For that reason alone we strongly prefer to avoid any prospective source of internal friction.

Another concern expressed by many of the district judges is the disparity between their salary and that of the circuit judges. Perhaps I ought not to mention this, but it is the truth and we may as well face it. The salary spread between the Circuit Court and the Court of Appeals, and between that court and the supreme court is $2,000.00. Between the District Court and the Circuit Court it is $7500.00. All of us would like to see this difference reduced to something more nearly like that which separates the other levels of the judiciary. In their defense, let me add that the district judges are fully alert to the inevitable reaction that they knew what the salary was when they ran for the office and are not in much of a position to complain about it so soon. They would respond, however, that most of them aspired to the office with a judicial career in view and with the intention of doing what they could to upgrade the office of district judge to the level they believe it should enjoy. To put it another way, that they knew the boat leaked before they got aboard is no reason why they should not try to have the leaks repaired.

ADMINISTRATION

No semblance of order in the transition from the old system to the new could have been possible without the assistance of the Administrative Office of the Courts. This office has the duty of insuring uniform operations and procedures in our courts.

Operational manuals have been developed to standardize procedures throughout the state. New recordkeeping procedures to improve efficiency in the courts, the reduction of the number of forms being used by all courts from 500 to 100, and the elimination of order and judgment books, are examples of efforts to reduce costs and improve efficiency.

A new accounting system has been installed. The state auditor's office, the state treasurer, and the secretary for finance and administration have aided in the development of this system.

A personnel system for the Court of Justice similar to the state personnel system has been implemented. All personnel actions in the judicial department are governed by these rules.

A judicial college was conducted by the Administrative Office for the first time in the history of this state. The college included over 35 hours of class time. 68 circuit judges attended the first judicial college in Kentucky.

110 district judges attended a week-long orientation session. This program aided them in preparing to take the bench on the first Monday of January.

The Administrative Office also has prepared a bench manual for ready reference of the judges and a circuit clerk's manual for the assistance of the circuit clerks.

The pretrial release agency administered by the Administrative Office of the Courts has been designated as one of the ten most successful new programs in the United States. The agency maintained a failure-to-appear rate of 3.5% throughout the year.

Kentucky remains the only state with such a program. Its success has established a precedent for other jurisdictions to follow.

THE JUDICIAL BUDGET

The judicial phase of the executive budget submitted to this body last week p rojects for the next biennium expenditures of some $77 million against anticipated revenues of about $67 million. The revenues, of course, are less predictable than the expenditues, and of necessity the revenue estimates have been derived largely from figures reported by several hundred quarterly, police and magisterial courts throughout the Commonwealth. Some of these figures are more reliable than others. From the amount of fines already collected by some of the district courts in less than three weeks there is good reason to believe that court revenues during the next biennium wil be substantially in excess of the conservative estimate presented in the budget. It should be recognized, of course, that it really is not the function of the courts to make money. Their revenue-producing capacity is strictly incidental to the administration of justice. Be that as it may, the projected difference of some $10 million between revenues and expenditures for the next biennium compares favorably with past appropriations of about $13 million per biennium for the judicial branch of government. Though much as been said of the expense of the new system, what the proposed budget really brings into focus is that this $10 million net outlay for the courts and their support amounts to a mere 14 cents out of every $100 contained in the total budget of more than $7 billion.

RELATIONSHIP WITH THE GENERAL ASSEMBLY

Before leaving you, I am moved to discuss one further subject. That is the state of relations between your branch of government and ours. A spirit of friendship, respect and common purpose must prevail among us if we are ever to realize the public confidence in government that is in such short supply today. It is a tragic fact that the average citizen has come to fear and distrust his own government. If he had his choice about it, I suspect he would prefer that we all stay home. If we who are a part of his government do not understand each other, he is not likely to understand or believe in any of us.

It seems to me that over the 18 years in which I have been a member of your highest court there has never been a sufficient congeniality between us. Probably there has been a lack of communication, which is the usual source of misunderstanding. The historic role of judges, appellate judges in particular, is to be uncommunicative. At least one author has characterized them as a "priestly caste," like Indian medicine men uttering mysterious incantations the ordinary citizen finds hard to understand. But if there is such a barrier between us, the time has come to break it down.

That our function in the scheme of government saddles us with the duty from time to time of passing on the constitutional validity of your work is one of those unavoidable facts of life that is bound to generate a degree of annoyance now and then. I think you should rest assured that it never gives us any pleasure or satisfaction to declare an act unconstitutional. Whether or not it shows or is made apparent, the court always "leans over backward" to uphold the validity of a statute. Sometimes we receive equal criticism whichever way it goes. We upheld the no-fault insurance law and were criticized by the lawyers. We struck down the medical malpractice insurance law and were criticized by the doctors. But of one thing you may be certain: in all the time I have been a member of the court, though some of the other 16 judges with whom I have served were more politically oriented than others, never has a decision been made for the purpose of influencing the outcome of an election of any kind, and that includes our first opinion in the home-rule case.

Most of the men with whom I have had the privilege of serving have been men of courage. The proudest moment of my judicial career was the day they stood as one man on the 100% assessment case. They knew their political careers were on the block. Other judges before them had ducked, evaded and slipped around the question, but the time had come to meet it, and they did what was right, bitter as it was. The broad-form deed cases have been just as bitter. It gave us no pleasure to decide them against the small landowner, and certainly it was not the popular thing to do. But the law had been settled before we came along, and we had no more right to shift property rights without due process of law than you do. I cite these examples to suggest that many things that are unspoken and unseen go into the decisions we are required to make in cases of great public interest, and to impress upon you that those hard decisions do not reflect our own personal preferences.

In all of this, what I seek of you today is a better understanding of us, an understanding that we can and will reciprocate. Both of us are bound in the service of the same master, the citizens and taxpayers of this great state. It is just as much to our interest as it is to yours that every dollar of their money be spent where it will do the most public good. So in leaving you today I extend to you, the General Assembly, the hand of friendship, indeed of brotherhood, as it is so appropriately symbolized on the seal of our Commonwealth. From this day on, let us plow forward and break ground as a team, neither pulling against the other, but as partners, for the common good of our people.

Representative B. Richardson moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Senate Message

Announcing passage of **SB 25, SB 39, SB 58.**

Introduction of Bills and Resolutions

HB 257, by Representatives Beshear, Kenton, List, Trevey, and Van Horn: AN ACT relating to inspections.

HB 258, by Representatives Donnermeyer, Mann, and Petty: AN ACT relating to insurance.

HB 259, by Representative Bendl: AN ACT relating to the Legislative Research Commission.

HB 260, by Representative Craddock: AN ACT relating to county clerks.

HB 261, by Representatives Imes and Morris: AN ACT relating to public purchasing.

HB 262, by Representative Romines: AN ACT relating to special license plates for general assembly members.

HB 263, by Representatives Jones, Morris, Adams and Richards: AN ACT relating to plumbing.

HB 264, by Representatives Rattliff, Layman, Blandford, Burnette, Clapp, Crupper, Davenport, DeMarcus, Foster, Gay, Haering, LeMaster, List, Marcum, May, Overstreet, Patrick, Pearman, Plummer, B. Richardson, Romines, Schmidt, R. Smith, Trevey, Van Horn and Wells: AN ACT relating to taxation.

HB 265, by Representatives Weinberg, Little, J. Allen, W. Allen, Boswell, Brinkley, Brown, Bruce, Burnette, Cyrus, Davenport, Dawahare, Deskins, Gay, Head, Holbrook, Layman, Marcum, May, McKinney, Noe, Overstreet, Patrick, Petty, Robinson, R. Smith, Stone and Turner: AN ACT relating to a mineral severance tax, the distribution of revenues therefrom, and making an appropriation thereto.

HB 266, by Representatives Clarke, Holloway and Bendl: AN ACT relating to health insurance.

HB 267, by Representatives Clarke, Benson, O'Brien, Adams, Bendl, Donnermeyer, Fitzgerald, and Arnold: AN ACT relating to a state rock.

HB 268, by Representative Mann: AN ACT relating to alcoholic beverage control.

HB 269, by Representative Holbrook: AN ACT relating to marriages.

HB 270, by Representatives Deskins and Cyrus: AN ACT relating to workmen's compensation.

HB 271, by Representatives LeMaster, W. Allen, Adams, Arnold, Brinkley, Burnette, Carpenter, Clapp, Craddock, Crupper, Fitzgerald, Foster, Guy, Hancock, Holbrook, Imes, Jones, List, Maynard, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Thomas, Tobin, and Wells: AN ACT relating to shoplifting suspects.

HB 272, by Representatives Hancock, Wilborn, F. Smith, Carpenter, P. Richardson, and Crupper: AN ACT relating to salaries of state officers and employes.

HB 273, by Representatives Van Horn and Bennett: AN ACT relating to deductions from wages.

HB 274, by Representatives Burch and Tobin: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to the homestead exemption.

HB 275, by Representative Deskins: AN ACT relating to workmen's compensation.

HB 276, by Representatives Bennett, Van Horn, and Lindsay: AN ACT relating to unfair practices in franchising, leasing and business agreements.

HB 277, by Representatives Bennett and Van Horn: AN ACT relating to sales tax exemptions for handicapped devices.

HB 278, by Representative Bennett: AN ACT relating to arbitration.

HR 27, by Representative B. Richardson: A RESOLUTION amending the Rules of the House of Representatives.

HR 28, by Representative B. Richardson: A RESOLUTION amending Rule 39 of the Rules of the House of Representatives.

HCR 29, by Representatives Jones, Morris, Adams and Richards: A CONCURRENT RESOLUTION directing a study of alternative on-site sewage disposal systems as they apply in rural Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 245, HB 249.**

Appropriations and Revenue: **HB 248, HB 253.**

Business Organizations and Professions: **HB 250.**

Counties and Special Districts: **HB 247.**

Education: **HJR 24.**

Elections and Constitutional Amendments: **HB 252.**

Health and Welfare: **HB 246.**

Highways and Traffic Safety: **HB 255.**

Judiciary-Statues: **HB 251, HB 256.**

Public Utilities and Transportation: **HB 244, HB 254.**

State Government: **HCR 26.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 241.**

State Government: **HCR 26, HJR 20, HB 200, HB 190.**

Banking and Insurance: **HB 172, HB 208, SB 67.**

Elections and Constitutional Amendments: **HB 137, HCR 7.**

Counties and Special Districts: **HB 33, HB 211.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 52** and **HB 101,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to the certification of soil classifiers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW CHAPTER OF KRS 322A IS ESTABLISHED AND A NEW SECTION IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Division" shall mean the state division of occupations and professions of the executive department for finance and administration.

(2) "Certified soil classifier" shall mean a person who, by reason of his special knowledge of the physical, chemical and biological sciences applicable to soils has been duly certified by the division.

(3) "Kind of soil" shall mean a group of natural bodies that has a discrete combination of landscape, morphological, chemical and physical properties.

(4) "Practice of soil classifying" shall mean any service or work, the adequate performance of which requires education in the physical, chemical, biological and soil sciences, and requires training and experience in the application of the special knowledge of these sciences to soil classification; the soil classification by accepted principles and methods, investigation, evaluation and consultation on the effect of measured, observed and inferred soil properties upon the various uses of soil; the preparation of soil descriptions, maps and reports; the making of interpretive drawings, maps, and reports of soil properties and the effect of soil properties upon the various uses; and the effect of the various uses upon kinds of soil, any of which embraces such services or work, either public or private, incidental to the practice of soil classifying.

(5) "Soil classification" shall mean the process of plotting the boundaries, describing and evaluating the kinds of soil as to their behavior and response to management under the various uses.

(6) "Soil" shall mean all of the groups of natural bodies occupying the unconsolidated portion of the earth's surface, which are capable of supporting plant life and which have properties due to combined effect of climate and living organisms, as modified by topography and time, upon parent materials.

SECTION 2. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section:

(a) Certification as a soil classifier shall be granted by the division to persons who have successfully passed an examination in the principles and practice of soil classifying. An appropriated examination shall be selected or developed by the division with advice from the Kentucky Association of Soil Classifiers and any other group or individual the division determines possesses expertise in the field of soil classifying.

(b) Every applicant for examination shall possess at minimum a baccalaurate degree with thirty (30) semester hours or equivalent in biological, physical or earth sciences including fifteen (15) semester hours in soil science, plus two (2) years of responsible experience in the practice of soil classifying.

(2) Within one (1) year from the effective date of this Act, an applicant may be certified as a soil classifier without examination if the division finds that he is:

(a) A person who has been a practicing soil classifier at least two (2) years prior to the effective date of this Act.

(b) A person holding a certificate of registration or certification in the practice of soil classifying issued to him by a proper authority of another state having requirements equal to or greater than those prescribed in Kentucky.

SECTION 3. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) Application for certification as a soil classifier shall be on forms prescribed and furnished by the division and shall contain statements made under oath including, but not limited to, the applicant's education and a summary of his experience and shall be accompanied by an examination fee established by the division of not more than fifty dollars ($50).

(2) Examinations may be held at such times and places as the division shall determine, but shall be offered at least annually. The passing grade on any examination shall not be less than seventy percent (70%). An applicant failing an examination may apply after thirty (30) days from such failure for reexamination at the next regularly scheduled examination. Permission to be reexamined shall be granted upon payment of a fee established by the division not to exceed the initial examination fee.

(3) The division shall issue a certificate to any applicant who has met the requirements of this Act and has paid an initial certification fee established by the division of not more than one hundred dollars ($100). Such certificates shall carry the designation "certified soil classifier," shall show the full name of the certificate holder without any title, shall be numbered, and shall be signed by the director of the division.

(4) Fees shall be established by the division in accordance with the provisions of this section but they shall not exceed the amount necessary to recover the cost of administering the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

The division shall have the following powers and duties:

(1) To adopt and amend from time to time administrative regulations, in accordance with the provisions of KRS Chapter 13, to carry out the provisions of this Act.

(2) To accept applications for certification, to review qualifications of applicants to assure conformity with the provisions of this Act, to develop or select and to administer an appropriate examination and to issue a certificate to those who qualify in accordance with this Act.

(3) To keep a record of all applications for certification. These records shall show: the name, age and last-known address of each applicant; the place of business of each applicant; his education, experience and other qualification(s); type of examination required; whether a certificate of certification was or was not granted; the date of any action by the division; and such other information as may be deemed necessary by the division.

SECTION 5. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

(1) No person shall practice or offer to practice soil classifying or engage the practice of soil classification as a certified soil classifier or use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a certified soil classifier, unless such person is duly certified by the division in accordance with the provisions of this Act. Nothing in this Act shall be construed as to prohibit the practice of soil classifying by persons not certified under the provisions of this Act who do not hold themselves out to be certified soil classifiers.

(2) Any person who practices or engages in the business of, or offers to practice, soil classifying as a certified soil classifier in this state without being certified in accordance with the provisions of this Act; or any person, firm, partnership, organization, association, corporation or other entity using or employing the words "Certified Soil Classifier" or any modification or derivative thereof in its name or form of business or activity, except as authorized in this Act; or any person presenting or attempting to use the certificate of certification of another; or any person who shall give any false or forged evidence of any kind to the division or to any member thereof in obtaining or attempting to obtain a certificate of certification; or any person who shall impersonate any other certificate holder of like or different name; or any person who attempts to use a nonexistent certificate of certification; or any person who practices, or offers to practice, as a certified soil classifier when not qualified; or any person who falsely claims to be certified under this Act; or any person, partnership, corporation or other entity who shall violate any of the provisions of this Act shall be fined a sum not to exceed one thousand dollars ($1,000).

SECTION 6. A NEW SECTION OF KRS CHAPTER 322A IS CREATED TO READ AS FOLLOWS:

All fees, charges and other monies received by the division pursuant to the provisions of this chapter shall be credited to the trust and agency account of the division. All expenses incurred in the administration of this Act shall be paid out of this account and any monies not expended by the end of each even-numbered fiscal year shall revert to the general fund.

Section 7. There is appropriated to the Division of Occupations and Professions the sum of five thousand dollars ($5,000) for fiscal years 1978-79 and 1979-80, to be used to develop policy, procedures and staff services necessary to carry out the provisions of this Act.

HB 101, AN ACT relating to emergency medical technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Emergency Medical Technician Certification Act of 1978."

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

No person shall:

(1) Hold himself out as certified pursuant to this Act nor use the initials "EMT" or "EMT-Paramedic" when he does not hold a current valid certification issued pursuant to this Act; or

(2) If certified, violate any provision of this Act or any rule or regulation, adopted by the department for human resources relating to this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The department for human resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, including paramedics, instructors, instructor-trainers, paramedic instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The secretary for human resources may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of certificates, and for the renewal of certificates issued pursuant to this Act. All such fees, charges or other moneys collected by the department under this Act shall be paid into the state treasury and credited to a trust and agency fund to be used by the department for human resources for carrying out the provisions of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act or any rule or regulation of the department for human resources adopted pursuant to this Act shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 101** is as follows:

HB 101, AN ACT relating to emergency medical technicians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Emergency Medical Technician and Paramedic Certification Act of 1978".

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

No person shall:

(1) Hold himself out as certified pursuant to this Act nor use the initials "EMT" when he does not hold a current valid certification issued pursuant to this Act; or

(2) If certified, violate any provision of this Act or any rule or regulation, adopted by the department for human resources relating to this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The department for human resources shall adopt rules and regulations relating to emergency medical technicians. The regulations may include, but need not be limited to, the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, and revocation of certificates, and such other standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The secretary for human resources may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of certificates, and for the renewal of certificates issued pursuant to this Act. All such fees, charges or other monies collected by the department under this Act shall be paid into the state treasury and credited to a trust and agency fund to be used by the department for human resources for carrying out the provisions of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act or any rule or regulation of the department for human resources adopted pursuant to this Act shall be guilty of a Class A misdemeanor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No person shall:

(1) Hold himself out as certified pursuant to this act nor use the term "paramedic" when he does not hold a current valid certification issued pursuant to this Act; or

(2) If certified, violate any provision of this Act or any rule or regulation, adopted by the Board of Medical Licensure, relating to this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The Board of Medical Licensure shall adopt rules and regulations relating to paramedic. The regulations may include, but need not be limited to, the classification and certification of paramedic, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of certificates, and such other standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The Board of Medical Licensure may, by regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of certificates, and for the renewal of certificates issued pursuant to this Act. All such fees, charges or other monies collected by the Board of Medical Licensure under this Act shall be paid into the state treasury and credited to a trust and agency fund to be used by the Board of Medical Licensure for carrying out the provisions of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 6 of this Act or any rule or regulation of the Board of Medical Licensure adopted pursuant to this Act shall be guilty of a Class A misdemeanor.

The Committee Amendment to the Committee Substitute to **HB 101** is as follows:

Amend printed copy of **HB 101/CS,** page 1, the title is amended to read as follows:

"AN ACT relating to emergency medical technicians and paramedics."

The Committee on Banking and Insurance reported **HB 4** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to blanket bonds of banks and credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 21 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Whenever any licensed company writing blanket bonds on banks and credit unions in the Commonwealth intends to cancel, terminate or not renew the bond of any bank or credit union, it shall notify the department of banking and securities of its intention to cancel, terminate or not renew any such bond not less than thirty (30) days prior to the effective date of such action.

The Committee on Rules reported **HB 23, HB 24, HB 67, HB 99, HB 145,** and **HB 184** have been posted for passage in Orders of the Day on January 25, 1978.

Motions, Petitions and Communications

The Speaker announced a meeting of the Committee Chairmen immediately following the meeting of the Committee on Rules.

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to be added as co-sponsors of Bills and Resolutions: Representative Brown, **HB 101;** Representative Donnermeyer, **HB 2;** Representative Holbrook, **HB 101;** Representative Petty, **HB 2.**

Representative W. Allen requested that he be recorded as voting "yea" on **HB 11.**

Representative Priddy requested that she be recorded as voting "yea" on **HB 31, HB 11, HB 64, SB 75,** and "nay" on **HB 91.**

Representative Holbrook moved that the rules be suspended for the purpose of reporting and acting upon a Resolution. Agreed.

HR 30, by Representatives Holbrook and Brown: A RESOLUTION to adjourn the House of Representatives in memory and honor of John McKenzie.

HR 30, A RESOLUTION to adjourn the House of Representatives in memory and honor of John McKenzie.

WHEREAS, John W. McKenzie was widely respected within the legal profession in eastern Kentucky and throughout the Commonwealth; and

WHEREAS, John McKenzie was a loyal and active member of the Democratic Party at both the state and local levels, serving as chairman of the Boyd County Democratic organization and as a member of the Democratic State Central Committee; and

WHEREAS, John McKenzie was active in community activities and a long time member of both the Boyd County and Kentucky Bar Associations; and

WHEREAS, his accomplishments as attorney, husband, father and community supporter won him admiration and are worthy of notice and commendation by this body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Tuesday, January 24, 1978, it does so in honor and memory of John W. McKenzie.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of JohnW.McKenzie.

Representative Holbrook moved the adoption of **HR 30.**

HR 30 was adopted by voice vote.

Representative Fitzgerald moved that the vote by which **HB 91** was defeated be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was yeas 71-Adams, Arnold, Bendl, Bennett, Benson, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Kenton, Layman, LeMaster, List, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Williams, Worthington, Yates. Nays 0.

The motion that the vote by which **HB 91** was defeated be reconsidered and that it be placed in the Orders of the Day was adopted.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 279, by Representative Imes: AN ACT relating to occupational and professional licensing.

HB 280, by Representative Lindsay: AN ACT relating to wills.

HB 281, by Representative Beshear: AN ACT relating to probation.

HB 282, by Representative Beshear: AN ACT relating to juvenile probation officers.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 216, HB 225, HB 229.**

Cities: **HB 94.**

The Clerk announced the following Bill has been withdrawn from Committee consideraton:

Health and Welfare: **HB 179.**

Orders of the Day (Cont.)

Representative B. Richardson moved that consideration of **HB 5, HB 68, HB 91** and **HB 72** be deferred and that they retain their position in Orders of the Day. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

No. 1 to **HB 72** by Representative Deskins.

Nos. 2 and 3 to **HB 5** by Representative Holbrook.

No. 4 to **HB 5** by Representative B. Richardson.

No. 1 to **HB 123** by Representative Kleier.

The Clerk made the following announcements concerning Committee meetings:

Education: 9:00 a.m., Wednesday, January 25, 1978.

Appropriations and Revenue:

Wednesday, Room A, 9:30 a.m. (Education and Arts)

Thursday, 9:30 a.m. (Road funds)

Friday, 30 minutes after adjournment

Monday, January 30, 9:30 a.m. (Severance tax)

Tuesday, January 31, 9:30 a.m. (Higher Education)

Right to Life Group: January 25, 1978, 11:00-12:00.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, January 25, 1978.

On the roll call the vote was yeas 51-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Guy, Haering, Holbrook, Isler, Kenton, Kidd, Layman, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Rattliff, Riner, Robinson, Sale, Schmidt, F. Smith, Thomas, Van Horn, Wilborn, Worthington. Nays 20-Blythe, DeFalaise, Demarcus, Deskins, Fitzgerald, Gray, Guenthner, Hancock, Holloway, Hurst, Imes, LeMaster, Overstreet, Patrick, Priddy, P. Richardson, Romines, Trevey, Williams, Yates.

The motion to adjourn was adopted.

WEDNESDAY, JANUARY 25,1978

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John Hunt, South Presbyterian Church, Frankfort.

The roll was called. All present except Representatives Kidd and Stewart.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 24, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 283, by Representative Richards: AN ACT relating to personal leave days for school employes.

HB 284, by Representative Richards: AN ACT relating to emergency leave for school employes.

HB 285, by Representatives Fitzgerald and Bruce: AN ACT relating to cattle.

HB 286, by Representatives Imes, Morris, Bruce, Gray, Boswell, Burnette, and Boatwright: AN ACT relating to the motor vehicle usage tax.

HB 287, by Representatives Stone, Brown, Patrick, Head, and Brinkley: AN ACT relating to individual income tax.

HB 288, by Representatives Stone, Brown, Patrick, and Head: AN ACT relating to sales and use taxes.

HB 289, by Representatives Gray and Imes: AN ACT relating to motor vehicle operator's licenses.

HB 290, by Representative Gray: AN ACT relating to wages and hours.

HB 291, by Representatives Imes and Adams: AN ACT relating to the general assembly and making an appropriation therefor.

HB 292, by Representatives Williams and Hines: AN ACT relating to public employes.

HB 293, by Representative Van Horn: AN ACT relating to deductions from wages.

HB 294, by Representative Imes: AN ACT relating to income taxes.

HB 295, by Representatives Johnson, Boswell and Gray: AN ACT relating to chiropractors.

HB 296, by Representative Johnson, Boswell, Dawahare, Fitzgerald, Gray, Haering, Kleier, Patrick and Wright: AN ACT relating to exemption of products used in ostomy care from the sales tax.

HB 297, by Representative Lindsay: AN ACT relating to opinions issued by the Attorney General.

HB 298, by Representative Nett: AN ACT relating to domestic relations.

HB 299, by Representatives Nett, Riner, Adams, Bennett, Blandford, Clapp, Dawahare, Dietz, Donnermeyer, Guenthner, Haering, Holbrook, Hurst, Imes, Isler, Kleier, Mann, Maynard, McKinney, Morris, Pearman, Petty, Priddy, Schmidt, Thomas, Van Horn and Yates: AN ACT relating to insurance.

HCR 31, by Representatives Gray, Deskins, Dietz and Romines: A CONCURRENT RESOLUTION to enhance industrialization opportunities of the Commonwealth of Kentucky.

HR 32, by Representatives Boswell, Johnson and Blandford: A RESOLUTION commending the Apollo High School basketball team.

Senate Message

Announcing passage of **SB 21, SB 50, SB 77, SB 79, SB 104,** and **SB 117.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Apppropriations and Revenue: **HB 264, HB 265, HB 277.**

Banking and Insurance: **HB 258, HB 266.**

Business Organizations and Professions: **HB 268.**

Cities: **HB 257.**

Counties and Special Districts: **HB 260.**

Education: **SB 25, SB 39.**

Elections and Constitutional Amendments: **HB 274.**

Health and Welfare: **HB 263, HCR 29, SB 58.**

Judiciary-Statutes: **HB 269, HB 271, HB 280, HB 281, HB 282.**

Labor and Industry: **HB 270, HB 273, HB 275, HB 276, HB 278.**

Public Utilities and Transportation: **HB 262.**

State Government: **HB 259, HB 261, HB 267, HB 279, HR 27, HB 272, HR 28, HR 9.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 242.**

State Government: **HB 150, HB 227.**

Judiciary-Statutes: **HB 271.**

Report of Committees

The Committee on Rules reported **HB 55, HB 57, HB 119, HB 180,** and **HJR 5** have been posted for passage in Orders of the Day, January 26, 1978.

The Committee on Labor and Industry reported **HB 7,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to public employes' collective bargaining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
As used in this Act:

(1) "Person" includes one or more individuals, employe organizations, public employes, public employers, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(2) "Public employer" means the Commonwealth of Kentucky or any political subdivision of the state, including, without limitation, any municipal corporation, county, school district, school board, state institution of higher learning, air board, any state licensed institution, any public or special district, or any state agency, authority, commission, department, co-operative, publicly owned or operated utility, quasi-governmental corporation, or board or other branch of public employment;

(3) "Public employe" means any person holding a position by appointment or employment in the service of a public employer, except:

(a) Persons holding elective office;

(b) Employes of the general assembly and employes of any other legislative body of the public employer whose principal duties are directly related to the performance of the legislative functions of such body;

(c) Employes on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the governor or the chief executive;

(d) Executive personnel, such as department and agency heads, including but not limited to the secretary, commissioner, and division director of each such department or agency, and other certain confidential employes;

(e) Independent contractors;

(f) Board (not just the "board" as defined in this Act) and commission members;

(4) "Board" means the Commonwealth of Kentucky employment relations board created by this Act;

(5) "Employe organization" means any bona fide employe organization in which employes participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, disputes, wages, rates of pay, hours of employment or conditions of employment;

(6) "Exclusive representative" means the employe organization which has been (a) certified for the purposes of this Act by the Commonwealth of Kentucky employment relations board as the exclusive representative of the public employes in an appropriate unit, or (b) recognized by a public employer prior to the effective date of this Act as the exclusive representative of the employes in an appropriate unit, or subsequently after notice to the employes and interested organizations as provided by rules of the board, upon evidence that the employe organization has been designated as the exclusive representative by a majority of the employes in an appropriate unit;

(7) "Supervisor" means any individual having authority, in the interest of the public employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline other public employes, or responsibility to direct them, or to adjust their grievances, or to effectively recommend such action, if in connection with the foregoing exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(8) "To bargain collectively" is the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employes to meet at reasonable times, including meetings in advance of the budget-making process, and negotiate in good faith with respect to wages, hours, other conditions of employment including any other matters agreed to by the parties as a subject of bargaining and other matters of mutual concern, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation shall not compel either party to agree to a proposal or require the making of a concession, provided, that where there is in effect a collective bargaining contract covering employes of the public employer, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification:

(a) serves a written notice upon the other party to the contract of the proposed termination or modification ninety (90) days prior to the expiration date thereof, or in the event such contract contains no expiration date, ninety (90) days prior to the time it is proposed to make such termination or modification;

(b) offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications;

(c) notifies the commissioner of labor sixty (60) days prior to the expiration date thereof, or in the event such contract contains no expiration date, sixty (60) days prior to the time it is proposed to make such termination or modification, provided no agreement has been reached by that time;

(d) After notice is given to the commissioner of labor, he shall promptly communicate with the parties and use his best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the commissioner for the purpose of aiding in a settlement of the dispute;

(9) "Professional employe" means any employe engaged in work which is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of

higher learning or a hospital, as distinguished from an apprenticeship; or an employe who has completed the courses of such specialized intellectual instruction and is performing related work under supervision of a professional person to qualify himself to become a professional employe;

(10) "Wages" means hourly rates of pay, salaries or other forms of compensation for services rendered.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The department of labor shall have the authority to administer this Act in cooperation with a part-time board.

(2) Within the department of labor there is hereby created such a board to be known as the Commonwealth of Kentucky employment relations board which shall be composed of five members, appointed by the governor on the basis of training, practical experience, education, and character. His announcement and official act of appointments shall enumerate in detail those qualities, training, education and practical experience of the appointee, upon which he based his appointment. Initial appointments shall be made by the governor within ninety (90) days of the effective date of this Act. Two of the original members shall be appointed for terms of two years, one for a term of three years and two for terms of four years, but their successors shall be appointed for terms of four years each, except that any individual chosen to fill a vacancy shall be appointed only for the unexpired term of the term of the member who he is to succeed. The governor shall designate one member to serve as chairman of the board. Any member of the board may be removed by the governor, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause.

(3) A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members of the board shall, at all times, constitute a quorum. Board vacancies shall be filled by the governor within ninety (90) days.

(4) The board shall make an annual report in writing to the governor and the commissioner of labor, stating in detail the work it has done.

(5) Examiners and other agents whose functions are to conduct hearings, shall be selected and assigned with due regard to their impartiality, judicial temperament and knowledge. If in any proceeding under this Act, any party prior to five days before the hearing thereof shall file with the commissioner a sworn statement charging that the examiner or other agent designated to conduct the hearing is believed to be biased or partial in the proceeding, such examiner may be disqualified by the board, and another examiner or agent may be designated to conduct such proceeding. At least ten (10) days preceding any hearing the board shall notify all parties to a proceeding of the name of the examiner or agent designated to conduct such hearing.

(6) The principal office of the board shall be in the city of Frankfort, but it may meet and exercise any or all of its powers at any other place within the state. The board may, by one or more of its members or any such agents or agencies as it may designate, conduct in any part of this state any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions. A member who participates in any such proceeding shall not be disqualified from subsequently participating in a decision of the board in the same case.

(7) In addition to the powers and functions provided in other sections of this Act, the board shall have the following powers and functions:

(a) To make studies and analyses of, and act as a clearing house of information relating to conditions of employment of public employes throughout the Commonwealth of Kentucky, and to request assistance, services, and data from any public employer or governmental unit, and such public employers or governmental units are authorized and directed to provide such assistance, services and data as will enable the board to carry out its functions and powers;

(b) To conduct studies of problems involved in representation and negotiation and to make recommendations from time to time for legislation;

(c) To hold hearings pursuant to this Act and for the purpose of such hearings and inquiries, to administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate such powers to any member of the board or any attorney-trial examiner appointed by the board for the performance of its functions;

(d) To make, amend, and rescind, from time to time, after notice and a public hearing, such rules regulations and procedures and to exercise such other powers, as may be appropriate to carry out the provisions of this Act.

(8) In cases of neglect or refusal to obey a subpoena issued to any person, the circuit court of the county in which the investigations or the public hearings are taking place upon application by the board, or its representative, may issue an order requiring such person to appear before the board, and give testimony about the matter under investigation. A failure to obey such order may be punished by the court as contempt, and;

(9) Any subpoena, notice of hearing or other process or notice of the board issued under the provision of this Act shall be served in accordance with the Kentucky rules of civil procedure;

(10) All of the expenses of the board, including all necessary traveling and subsistence expenses incurred by the members or employes of the board under its orders, shall be allowed and paid on the presentation of itemized vouchers therefor approved by the commissioner of labor or by any individual he designates for that purpose and in accordance with established auditing and payment procedures.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Public employes shall have the right to:

(1) Self organization, to form, join, assist, or participate in, or to refrain from forming, joining, assisting, or participating, except as otherwise provided in this Act, in any employe organization of their own choosing.

(2) Be represented by an employe organization, and

(3) Bargain collectively with their public employers to determine wages, hours and terms and conditions of employment and enter into collective bargaining agreements which may provide, among other things, fair procedures to settle grievances which may include final and binding arbitration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Public employers shall extend to an employe organization, certified or recognized as the exclusive representative pursuant to this Act, the right to represent exclusively the employes in the appropriate bargaining unit and the right to unchallenged and exclusive representation status.

(2) A public employer shall bargain collectively with an employe organization certified pursuant to the provisions of this Act.

Whenever a public employer is notified by the board that an employe organization has been certified as exclusive representative for a unit of its employes, such public employer shall designate an employer representative, and shall promptly notify the board and the employe organization of his identity and address. All communications concerned with collective relationships under this Act, from the employe organization or from the board, shall be addressed to the employer representative. The designated employer representative is hereby empowered to sign agreements resulting from collective bargaining on behalf of the public employer, but such agreements shall be subject to the procedures set forth in this Act.

(3) This Act does not abridge the recognition of or agreement with any employe organization which is in effect at the effective date of this Act, provided the agreement is for a term not exceeding three (3) years.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Representatives designated or selected for the purposes of collective bargaining by the majority of the employes in a unit appropriate for such purposes or by the majority of the employes voting in an election conducted pursuant to Section 7 of this Act, shall be the exclusive representatives of all employes in the appropriated unit for the purposes of collective bargaining. Any individual employe shall have the right at any time to present grievances for adjustment without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining then in effect; provided that the bargaining representatives have been given opportunity to be present at such adjustment. Such adjustment or determination shall not be a precedent in other grievances, whether similar or dissimilar.

(2) The board, in accordance with the procedures established herein, shall decide in each case the unit appropriate for the purposes of collective bargaining.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The board, in determining whether a unit of employes is an appropriate unit, shall consider among other relevant factors, such factors as the effects of over-fragmentization, community of interest, wages, hours and other working conditions of the employes involved, the history of collective bargaining, and the desires of the employes; provided, that a unit may be found to be the appropriate unit in a particular case, even though some other unit might also be appropriate, or might be more appropriate.

(2) In determining the appropriate bargaining unit, the board shall also:

(a) Not decide that any unit is appropriate if such unit includes both professional and non-professional employes, unless a majority of such professional employes vote for inclusion in such unit and unless a majority of such non-professional employes vote for inclusion in such unit.

(b) Not permit correction officers or guards at prisons or other institutions, or any individual employed as a guard to enforce against other employes rules to protect property of the employer or to protect the safety of persons on the employer's premises to be included in a unit with other public employes.

(c) Not permit supervisors as defined in this Act to be included in a unit with the employes they supervise.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) When a petition has been filed, in accordance with such regulation as is prescribed by the board:

(a) By any employe or group of employes or any individual or employe organization acting in their behalf alleging that thirty (30) percent of the employes in an appropriate unit (i) wish to be represented for collective bargaining by an exclusive representative, or (ii) assert that the designated exclusive representative is no longer the representative of the majority of employes in the unit;

(b) By the employer alleging that one or more employes organizations have presented to it a claim to be recognized as the exclusive representative of an appropriate unit. The board shall investigate such petition, and if it has reasonable cause to believe that question of representation exists, it shall provide for an appropriate hearing upon due notice to the parties. Notice of the hearing shall be posted in conspicuous places about the premises of the employer and served upon the existing exclusive representative, if any, at least ten (10) days prior to the date of the hearing. If the board finds upon the record of such hearing that such a question of representation exists, it shall direct an election and shall certify the results thereof. No one shall be permitted to vote by mail or proxy. The board may also certify an employe organization as an exclusive representative if it determines that a free and untrammelled election cannot be conducted because of the employer's unfair labor practices and that at one time the employe organization had the support of the majority of the employes in the unit.

(2) Only those employes organizations which have been designated by more than ten (10) percent of the employes in the unit found to be appropriate shall be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose: of a consent election, in conformity with the rules and regulations of the board; of recognizing an employe organization as the exclusive employe organization when there is no dispute as to its majority status, in which event the board shall, upon request by the employe organization, certify such employe organization as the exclusive employe organization of the employes in the unit.

(3) Representation elections shall be conducted by secret ballot at such times and places selected by the board subject to the following:

(a) The board shall give no less than ten days' notice of the time and place of such election.

(b) The board shall establish rules and regulations concerning the conduct of any election including but not limited to regulations which would guarantee the secrecy of the ballot.

(c) A representative may not be certified unless it receives a majority of the valid ballots cast.

(d) Except as provided herein, the board shall include on the ballot a choice of "no representative."

(e) In an election where none of the choices on the ballot receives a majority, a run-off election shall be conducted within a maximum of thirty days, the ballot providing for a selection between the two choices or parties receiving the highest and the second highest number of ballots cast in the election.

(f) No election shall be conducted pursuant to this section in any appropriate bargaining unit within which in the preceding twelve-month period a board-conducted election shall have been held nor during the term of any lawful collective bargaining agreement between a public employer and an exclusive representative. This restriction shall not apply to that period of time covered by any collective bargaining agreement which exceeds three years. For the purposes of this section, extensions of agreements shall not affect the expiration date of the original agreement.

(2) Petitions for elections may be filed with the board: (a) not sooner than one hundred twenty (120) days nor later than ninety (90) days before the expiration date of any collective bargaining agreement; or (b) after six (6) months after the expiration date until such time as a new written agreement has been executed. For the purposes of this section, mere extensions of the expiration dates of agreements shall not affect the expiration date of the original agreement.

SECTION 8. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) All matters pertaining to wages, salaries, employe benefits, and other terms and conditions of employment shall be subject to collective bargaining between the public employer and the exclusive representative.

(2) Nothing in this section shall interfere with the right of the public employer: (a) to direct and supervise employes; (b) to discipline employes for just cause; (c) subject to contract seniority and tenure rights, to determine the adequacy of the work force and to lay off employes for lack of work or funds; (d) to maintain the efficiency of governmental operations. Nothing in this subsection shall be construed as preventing an employe or employe organization from raising a legitimate complaint or filing a grievance based on the effects of such management decisions.

SECTION 9. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Any collective bargaining agreement reached by the employer and the exclusive representative shall be immediately reduced to writing and executed by both parties.

(2) Said agreement, which may contain a grievance procedure culminating with final and binding arbitration of unresolved grievances and disputed interpretations of agreements, shall be valid and enforced under its terms when entered into in accordance with the provisions of this Act. No publication thereof shall

be required to make it effective. Suits for violation of agreements or the enforcement of an award by an arbitrator may be brought by the parties to such agreement in the circuit court for any county wherein a party resides or transacts business, or the Franklin circuit court.

(3) Said agreement may contain a provision which requires the public employer to deduct the periodic dues, initiation fees and assessments or service fees uniformly required of members or employes represented by the exclusive representative upon presentation of a written deduction authorization; provided such authorization may be revocable by written notice to the public employer and the employe organization upon the will of the employe, at any anniversary date of the authorization. The deduction shall be made periodically as directed by the employe organization and remitted by the employer to the employe organization within thirty (30) days of the deduction.

(4) Until such time as a public employe organization has been certified as the exclusive representative, each public employer shall adopt policies or regulations which provide for deductions from salaries of its employes or groups of employes, periodic dues or initiation fees and assessments of employe organization(s) upon written authorization by the member or group of employes, provided such authorization may be revocable by written notice to the public employer and the employe organization upon the will of the member.

SECTION 10. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) It shall be an unfair labor practice for a public employer to:

(a) Interfere with, restrain, or coerce employes in the exercise of the rights guaranteed in this Act;

(b) Initiate, create, dominate, interfere with the formation of administration of any employe organization, or contribute financial or other support to it; provided, that a public employer shall not be prohibited from permitting employes to confer with it during working hours or perform activities related to this Act without loss of time or pay;

(c) Discriminate in regard to hire or tenure of employment, or any term or conditions of employment on the basis of the exercise of rights guaranteed by this Act; provided that nothing in this Act or any other statute of this state shall preclude any employer from making and enforcing an agreement requiring as a condition of employment membership in an employe organization on or after the 30th day following the beginning of such employment or on the effective date of such agreement, whichever is the later;

(d) Discharge or otherwise discriminate against an employe because he has filed charges or given testimony under this Act;

(e) Refuse to bargain collectively with the exclusive representative of his employes or fail to submit to any required legislative body of the public employer for approval any provision of the agreement requiring legislative approval within fourteen (14) days after agreement is reached.

(2) It shall be an unfair labor practice for an employe organization, its agents, or representatives, or public employes to:

(a) Restrain or coerce (i) employes in the exercise of the rights guaranteed in this Act; provided, that this paragraph shall not impair the right of an employe organization to prescribe its own rules with respect to the acquisition or retention of membership therein; or (ii) an employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) Cause or attempt to cause an employer to violate Section 10(1) of this Act;

(c) Refuse to bargain collectively with a public employer, provided the employe organization has been certified as the exclusive representative of public employes in a bargaining unit;

(d) Fail to fairly represent all public employes in a bargaining unit.

(3) The determination by the board or any court that a public official or employe has committed any unfair labor practice prohibited by this section shall not in and of itself form the basis of any charge for the removal from office or recall of such public official or employe, but such determination may be introduced as evidence in support of such charge.

SECTION 11. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Violation of Section 10 of this Act shall be deemed to be an unfair labor practice remediable by the board as provided in this section.

(2) If a charge is filed alleging that any person has engaged in or is engaging in any unfair labor practice, as defined in Section 10 of this Act, and it appears to the agent designated by the board for such purposes that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon the charged party a formal complaint and a notice of hearing before the board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than ten days after the service of said complaint:

(a) Any such complaint may be amended by the board at any time prior to the issuance of an order based thereon; provided, that the charged party is not unfairly prejudiced thereby. The person so complained of shall be allowed to file an answer to the original or amended complaint. The board, the person making the charge, and the person charged shall be parties and shall have the right to appear or otherwise give testimony and subpoena witnesses at the place and time fixed in the notice of hearing. Any other interested person may be allowed upon motion to intervene in the said proceedings and to present testimony.

(b) The testimony taken by such member, agent, or agency or the board shall be reduced to writing and filed with the board; thereafter in discretion, the board, upon notice, may take further testimony or hear argument. If upon the preponderance of the testimony taken the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring that he cease and desist from these unfair labor practices, and take such affirmative action, including reinstatement of employes with or without back pay, as will effectuate the policies of this Act, provided, that where an order directs reinstatement of an employe, back pay may be required of the public employer or employe organizations, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the extent to which he has complied with the order.

(c) If upon the preponderance of the testimony taken the board shall not be of the opinion that the person named in the complaint has engaged in or is engaging in any such unfair labor practice, then it shall state its findings of fact and shall issue an order dismissing the said complaint. No notice of hearing shall be issued based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the six (6) months period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as an employe or the payment to him of any back pay, if such individual was suspended or discharged for just cause. In case the evidence is presented before a member of the board, or before an examiner or examiners thereof, such member, or such examiner or examiners, as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the board, and if no exceptions are filed within twenty (20) days after service thereof, such recommended order shall become the order of the board and become effective as therein prescribed.

(d) If exceptions are filed to the proposed report, the board shall determine whether such exceptions raise substantial issues of fact or law, it may refuse to grant review, and the recommended order shall become effective as therein prescribed.

(3) Whenever a complaint alleges that a person has engaged in an unfair labor practice and that it will suffer substantial injury if it is not granted temporary relief, the board may petition the Franklin circuit court for appropriate injunctive relief, pending the final adjudication by the board with respect to such matter. Upon the filing of any such petition, the court shall cause notice thereof together with the time and place of hearing to be served upon the parties, and thereupon shall have jurisdiction to immediately conduct a hearing and grant such temporary relief or restraining order as it considers just and proper.

(4) Until the record in a case has been filed in a court, as hereinafter provided, the board may at any time upon reasonable notice and in such manner as it considers proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

SECTION 12. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The board or the complaining party shall have the power to petition the Franklin circuit court for the enforcement of such order and for appropriate temporary relief or restraining order, and the board shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which said order was entered and the findings and order of the board. When the board petitions the court, the complaining party shall be permitted to intervene in the case as a matter of right. Upon such filing, the court shall cause notice thereof to be served upon such person and thereupon shall have jurisdiction of the proceeding and the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to immediately make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the board.

(2) The findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the board, its member, agent, or agency, the court may order such additional evidence to be taken immediately before the board, its member, agent, or agency, and to be made a part of the transcript. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by such evidence, shall be conclusive and shall file its recommendations if any, for the modification or setting aside of its original order.

(3) The jurisdiction of the Franklin circuit court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review on questions of law as in civil cases.

(4) Any person aggrieved by any final order of the board granting or denying, in whole or in part, the relief sought may obtain a review of such order in the Franklin circuit court by filing in such court a written petition praying that the order of the board be modified or set aside. A copy of such petition shall be forthwith served upon the board, and thereupon the board shall file in the court a transcript of the entire record in the proceeding, certified by the board, including the pleadings and testimony upon which the order complained of was entered and the order of the board. Upon such filing, the court shall have exclusive jurisdiction to grant to the board such temporary relief or restraining order as it deems just and proper, and to immediately make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board, and the findings of the board as to the facts shall be conclusive.

(5) The commencement of proceedings under subsections (1) or (4) of this section shall not, unless specifically ordered by the court, operate as a stay of the board's order.

(6) Petitions filed under this Act shall be heard expeditiously by the circuit court to which presented and shall take precedence over all other civil matters except earlier matters of the same character.

SECTION 13. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The following procedures shall be followed in the resolution of disputes or negotiations between an employe organization and a public employer:

(a) Where a settlement procedure is provided in a collective bargaining agreement, such procedure shall prevail, or if such procedure does not terminate in voluntary, final and binding arbitration or does not otherwise result in a settlement, then the following procedure shall prevail:

(1) In the event that the parties are unable to reach agreement, any party may serve notice upon the commissioner of labor and the other parties to the dispute setting forth the names and addresses of the parties, the issues involved and the expiration date of the agreement if an agreement exists. Where an agreement exists the notice shall be served not later than sixty (60) days before the expiration date.

(2) If the mediator advises the commissioner that the parties are unable to reach agreement, or upon the expiration date of the agreement, if one exists, whichever occurs sooner, the commissioner may in his discretion appoint a fact-finding panel of not more than three (3) members who have been selected by the parties in accordance with rules established by the commissioner, from a list of qualified persons maintained by the department. The fact-finding panel shall in accordance with rules and procedures established by the commissioner which shall include the regulation of costs and expenses of fact-finding, gather facts and make recommendations for the resolution of the matter.

(3) The fact-finding panel acting by a majority of its members, shall transmit its findings of fact and recommendations to the public employer and employe organization involved and to the board. Such findings of fact and recommendations shall be transmitted no later than thirty (30) days after the appointment of the fact-finding panel. The state shall pay one-half the costs of the fact-finding panel; the remaining one-half of the cost shall be divided equally between the parties.

(4) Not more than ten (10) days after the findings and recommendations shall have been sent, the parties shall notify the commissioner and each other whether or not they accept the recommendations of the fact-finding panel and if they do not, the panel shall publicize its findings of fact and recommendations. But if the parties so choose, the fact-finders' recommendations can be viewed as defining and narrowing the issues and the parties may bargain over the fact-finders' recommendations and modify them if it accommodates settlement. If such bargaining appears productive giving latitude to the parties, the commissioner of labor may postpone publishing the fact-finders' recommendations if this would facilitate agreement.

(5) If the parties are unable to reach agreement: within ten (10) days after the publication of the findings and recommendations from the fact-finding panel or if, where fact-finding has not been requested or ordered, mediation has failed to bring the parties into agreement or the collective bargaining agreement, if one exists, has expired, or thirty (30) days have elapsed since the commissioner was notified that the parties cannot reach an agreement, then the matter shall be submitted to final and binding arbitration by an arbitrator selected by the parties. If the parties cannot agree upon an arbitrator within five (5) days, the commissioner shall immediately appoint an arbitrator from a list of qualified persons maintained by the department.

(b) Nothing in this section shall be construed to prohibit the parties from voluntarily agreeing to submit any or all of the issues in dispute to final and binding arbitration. If such agreement is reached said arbitration shall supersede the settlement procedures set forth in this section. An agreement shall be enforceable in the same manner as is provided in Section 9(2).

(c) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement or an arbitrator's award as provided in Section 9(2).

(d) Allegations of unfair labor practices during the settlement procedures set forth in Section 13 shall receive priority by the commissioner.

SECTION 14. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
Formal charges, petitions, complaints, orders, testimony, fact-finding recommendations, and other proceedings instituted by the board under this Act shall be public records and available for inspection or copying subject to rules and regulations to be made by the board. All hearings on complaints, or petitions pursuant to this Act shall be open to the public.

SECTION 15. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
This Act shall preempt without abrogating any existing collective bargaining rights of public employes all contrary local ordinances, executive orders or legislation; provided, that any political subdivision may enact, through its appropriate legislative body, procedures which will effectuate within its jurisdiction all of the mechanisms, purposes, and intent provided herein. Nothing in this Act shall be construed as precluding subordinate governmental units from further extension of their rights. Such procedures shall be discussed before enactment within interested organizations involved, and the procedures shall be approved by the board as complying with this Act before being put into effect. Charges of departure from approved procedures may be brought before the board for remedy.

SECTION 16. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
There is hereby created a council to be known as the Kentucky public employment citizens advisory council, the members of which shall be appointed by the governor to review developments regarding public sector employe relations matters and to make recommendations for continuing improvements in this area. Members shall serve without compensation and shall include public employer and employe organization representatives as well as others who are knowledgeable in public section employe relations matters.

SECTION 17. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
Collective bargaining meetings between public employers and employe organizations shall be considered private.

SECTION 18. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
If any provisions of this Act or the application of such provision to any person or circumstance shall be held invalid, the remainder of the Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 19. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
All provisions of this Act shall take effect September 1, 1978, except Sections 2 and 16 of this Act which shall take effect as provided in Section 55 of the Kentucky constitution.

Section 20. There is appropriated from the general expenditure fund to the department of labor $135,000 in fiscal year 1978-79 and $145,000 in fiscal year 1979-80 to be used to create, staff, and maintain said Commonwealth of Kentucky employment relations board pursuant to this Act.

The Committee Amendment to **HB 7** is as follows:

Amend printed copy of **HB 7,** page 28, line 1, remove the colon(:) and insert the following words: "And the public employes shall not resort to strikes and public employers shall not resort to lockouts in order to resolve disputes:"

Calendar

HB 52, HB 101, and **HB 4** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representatives W. Allen, **HB 121, HB 124;** Representative Blythe, **HB 271;** Representative Petty, **HR 21;** Representative Plummer, **HB 271**; Representative Robinson, **HB 299;** Representative F. Smith, **HB 72;** Representative Trevey, **HB 271.**

Orders of the Day

HB 5 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 4 to **HB 5.**

Amend printed copy of **HB 5,** page 2, by deleting lines 21 through 26 in their entirety;

and on page 3, line 1, by deleting line 1 in its entirety;

and on page 3, line 2, by deleting the words "*and remitted to the city or urban county government.*" and substituting in lieu thereof the following:

"*(5) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than thirty percent of the fee or tax collected and remitted to the city or urban county government or two percent of the premiums subject to the tax, whichever is less.*";

and on page 3, line 13, by inserting after "*government,*" the words "*at the expense of the requesting city or urban county government which shall be paid in advance by such city or urban county government to the department of insurance*";

and on page 3, line 14, by inserting after the word "examine" the words "*or cause to be examined by contract with qualified auditors*".

Agreed.

Representative Deskins moved **HB 5** as amended be passed.

On the roll call the vote was yeas 75-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Gay, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Layman, LeMaster, List, Little, Marcum, May, Maynard, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 10-Adams, Beshear, Boswell, Burnette, Donnermeyer, Gray, Imes, Lindsay, McNutt, Pearman.

HB 5 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 5** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 68** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 72 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the following Floor Amendment No. 1 to **HB 72:**

Amend printed copy of **HB 72,** by deleting on page 1 lines 3 through 21;

and on page 2 by deleting lines 1 through 13 and substituting in lieu thereof the following:

"The Fiscal court of any county may promulgate, pass and implement ordinances to satisfy state and federal regulations so as to qualify said county for flood insurance subsidized by the United States of America."

and on page 2, line 14, by renumbering Section 3 as Section 2.

Agreed.

Representative Deskins moved that **HB 72** as amended be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Holloway, Isler, Johnson, Jones, Kenton, Kleier, LeMaster, Lindsay, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Romines, Siemens, F. Smith, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 5-W. Allen, Bruce, Holbrook, Imes, Pearman.

HB 72 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 72** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 91** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 23 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved that **HB 23** be passed.

On the roll call the vote was yeas 65-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Gay, Gray, Guy, Haering, Hancock, Hines, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McNutt, Noe,O'Brien, Overstreet, Petty, Plummer, Priddy, B. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Thomas, Tobin, Trevey, Turner, Van Horn, White, Williams, Worthington, Wright, Yates. Nays 18-Adams, Arnold, Brown, Bruce, Burnette, Foster, Guenthner, Head, Holbrook, Holloway, Imes, Morris, Nett, Patrick, Richards, Stone, Weinberg, Wilborn.

HB 23 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 23** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 24 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 24** be passed.

On the roll call the vote was yeas 80-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brine, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Wright, Yates. Nays 3-Holbrook, Mann, Worthington.

HB 24 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 24** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 67, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the Committee Amendment to **HB 67.**

Representative B. Richardson moved that **HB 67** be laid on the Clerk's desk.

On the roll call the vote was yeas 82-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Robinson, Romines, Schmdit, Siemens, F. Smith, Stone, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Fitzgerald, Riner.

The motion that **HB 67** be laid on the Clerk's desk was adopted.

HB 99 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 89-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 99 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 99** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 145 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 145** be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 4-Blythe, DeMarcus, Richards, Trevey.

HB 145 was passed and the title agreed to.

Representative F. Smith moved that the vote by which **HB 145** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 184 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 90-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalasie, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 184 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 184** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills:

No. 2 to **HB 91** by Representative Weinberg.

No. 1 to **HB 91** by Representative Brown.

No. 1 to **HB 67** by Representative Romines.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, January 26, 1978.

On the roll call the vote was yeas 58-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Holbrook, Isler, Johnson, Jones, Kenton, Layman, List, Mann, Marcum, McBee, Morris, Nett, Noe, Pearman, Petty, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Trevey, Van Horn, White, Wilborn, Williams, Yates. Nays 6-Fitzgerald, Gray, Guenthner, Imes, Patrick, Priddy.

The motion to adjourn was adopted.

THURSDAY, JANUARY 26, 1978

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Ron Hockman, Vine Grove Christian Church, Vine Grove, Kentucky.

The roll was called. All present except Representatives Blythe, Carpenter, Clarke, Gay, Guenthner, Kidd, Maynard, Nett, Overstreet, Plummer, P. Richardson, Sale, Siemens, Stewart, Tobin, Trevey, Turner, and Wright.

Representatiave Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 25, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 300, by Representatives Hancock, P. Richardson, and Isler: AN ACT proposing an amendment to Section 172 of the Constitution of Kentucky relating to the reassessment of homestead property of persons sixty-five years of age and older.

HB 301, by Representative DeFalaise: AN ACT relating to oaths.

HB 302, by Representative DeFalaise: AN ACT relating to physically handicapped.

HB 303, by Representative Morris: AN ACT relating to motor vehicle accident reporting.

HB 304, by Representatives LeMaster and Robinson: AN ACT relating to issuance of summons.

HB 305, by Representative Kleier: AN ACT relating to public assistance.

HB 306, by Representative Kleier: AN ACT relating to public utility rates.

HB 307, by Representative Fitzgerald: AN ACT relating to criminal offenses.

HB 308, by Representative DeFalaise: AN ACT relating to limited access facilities.

HB 309, by Representative DeFalaise: AN ACT relating to annexation by municipaliteis.

HB 310, by Representative Noe: AN ACT relating to flood control.

HB 311, by Representative Van Horn: AN ACT relating to providing for licensing of electricians, electrical contractors, and electrical inspection and making an appropriation therefor.

HB 312, by Representatives Gray, William, Van Horn, Romines, and Deskins: AN ACT relating to unemployment compensation.

HB 313, by Representatives Gray, Patrick, Williams, and Imes: AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

HB 314, by Representatives Brown and Cyrus: AN ACT relating to annexation.

HCR 33, by Representatives Burnett, Hurst, Head, Blandford, and Petty: A CONCURRENT RESOLUTION relating to sodium nitrate.

Senate Message

Announcing passage of **SB 7, SB 35, SB 43,** and **SB 49.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 285.**

Appropriations and Revenue: **HB 286, HB 287, HB 288, HB 291, HB 294, HB 296, SB 117.**

Banking and Insurance: **HB 299.**

Education: **HB 283, HB 284, HR 32, SB 21, SB 104.**

Health and Welfare: **HB 295.**

Judiciary-Courts: **SB 50.**

Judiciary-Statutes: **HB 298.**

Labor and Industry: **HB 290, HB 293, HCR 31.**

Public Utilities and Transportation: **HB 289.**

State Government: **HB 292, HB 297, SB 77, SB 79.**

Posting of Bills and Resolutions for Consideration.

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Labor and Industry: **HB 209, HJR 6.**

Highways and Traffic Safety: **HB 201, HB 234.**

State Government: **HB 182, HB 199.**

Health and Welfare: **HB 140.**

The Clerk announced the following Bills has been withdrawn from Committee consideration:

State Government: **HB 127.**

Report of Committees

The Committee on Rules reported **HB 4, HB 52,** and **HB 101** have been posted for passage in Orders of the Day, January 27, 1978.

The Committee on Rules reported **HB 113** has been recommitted to the Committee on Appropriations and Revenue for study of fiscal impact in relation to teachers' retirement fund.

The Committee on State Government reported **HR 26** and **HB 190** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 26, A CONCURRENT RESOLUTION in memory of Coach Adolph Rupp.

WHEREAS, Adolph Frederick Rupp, beloved Baron of Basketball in Kentucky, has crossed that bourne from which no traveler returns; and

WHEREAS, this man in brown, this legend, this giant among the everlasting monuments to athletic competition and prowess has meant so much to so many, and has heaped laurels upon the Commonwealth of Kentucky the listing of which approaches the notion of infinity; and

WHEREAS, nowhere in all the annals of sport has there been exemplified a more dedicated, more disciplined, more knowledgeable, more competitive, more successful, more colorful, more astute, more devoted or more ardent devotee and practitioner of the will to win and to achieve greatness; and

WHEREAS, Coach Rupp's legacy to all Kentuckians in pride, success, achievement and recognition is matched only by men such as Lincoln, Clay and McDowell, and has been distributed without ration and with an abundance seldom equaled; and

WHEREAS, the burden of sorrow and grief at the loss of Adolph Rupp can be measured solely by the joys and triumphs his illustrious days and ways have lavished upon each of those fortunate enough to have known and recognized his magnificence;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That when the House of Representatives and the Senate do adjourn on (day), January 26, 1978, they do so in honor, memory and loving tribute to Coach Adolph Rupp.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of Coach Adolph Rupp.

HB 190, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13.087 is amended to read as follows:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the administrative regulation review subcommittee. The subcommittee shall be composed of three (3) members, no more than two (2) of whom shall be members of the same political party. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) Prior to filing, all regulations shall be submitted to the administrative regulation review subcommittee to determine if the regulation conforms to the statutory authority under which it was promulgated and if it carries out the legislative intent of the statutory authority under which it was promulgated. The subcommittee's finding that a regulation does not conform to the statutory authority or carry out the legislative intent shall be reported to the promulgating administrative body and to the director of the legislative research commission. In the event the subcommittee determines that a regulation, other than an emergency filing approved by the governor, does not conform to the statutory authority, or does not coincide with the legislative intent, the subcommittee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the subcommittee to the director of the legislative research commission. The subcommittee shall act on a regulation submitted to the legislative research commission within thirty (30) days of the submission of the regulation, *subject to the provisions of subsection (10) of this section.*

(5) The promulgating administrative body may revise a regulation to comply with the subcommittee's objections, and may return the revised regulation to the subcommittee, or it may return the regulation, with the subcommittee's notation attached, without change. The legislative research commission shall immediately accept a regulation as filed if it is not objected to by the subcommittee.

(6) In the event an administrative body returns a regulation, objected to by the subcommittee, to the legislative research commission without change, the regulation shall be referred by the director to the standing committee of the house of representatives and senate or to the interim committee with appropriate jurisdiction as determined by the rules of the house and senate then in effect or in effect during the most recent session of the general assembly. The standing committees of the house and senate or the interim committee to which a regulation is referred under this section shall review the regulation in the same manner as did the

administrative regulation review subcommittee and shall not expand their review beyond determining whether the regulation conforms to the statutory authority under which it was promulgated and whether the regulation carries out the legislative intent of the statute it seeks to implement. In the event the standing committee of the house and senate or the interim committee determines that a regulation does not conform to the statutory authority under which it was promulgated, or does not coincide with the legislative intent of the statute it seeks to implement the standing committees or the interim committee shall attach to the regulation a written notation of its objection, including a statement of the reasons therefor, and the director shall return the regulation to the promulgating administrative body. Notice of such objection shall be given by the standing committees or by the interim committee to the director of the legislative research commission. The standing committees or interim committee shall act on a regulation submitted in accordance with this section within thirty (30) days of the date the administrative body returns the regulation, *subject to the provisions of subsection (10) of this section*; provided, however, if there are no authorized meetings of the standing committees or the interim committee within such thirty (30) day period, the legislative research commission shall take action on the returned regulation in the same manner herein described at its next regularly scheduled meeting.

(7) The promulgating administrative body may revise a regulation to comply with the subcommittee's interim or standing committee's objections, and may return the revised regulation to said subcommittee or committee, or may return the regulation with the subcommittee's interim or standing committee's notation attached, without change. The legislative research commission shall immediately accept the regulation as filed.

(8) The subcommittee shall report monthly to the legislative research commission all action taken on administrative bodies' regulations. The director of the legislative research commission shall report to the commission all action taken by the standing committee or by the interim committee.

(9) All regulations objected to by the subcommittee and by the standing committees or interim committee and not revised by the promulgating administrative body together with the notations of the subcommittee's and the standing committee's or interim committee's objection shall be transmitted by the director to the clerk of the senate and the clerk of the house of representatives on or before the first day of each regular session of the general assembly. The clerk of the senate and the clerk of the house of representatives shall lay all regulations so transmitted before the senate and the house of representatives, respectively, for such action as the respective legislative bodies may determine to be appropriate.

(10) The subcommittee, standing committees or interim committee shall not be required to review, at any given meeting thereof, any regulation which was submitted or referred less than fourteen (14) days before such meeting; in such cases the subcommittee, standing committees or interim committee may elect to review such regulation at the next scheduled meeting. Whenever the subcommittee, standing committees or interim committee shall defer action or regulation to allow the promulgating administrative agency to revise the regulation and re-submit same, the subcommittee, standing committees or interim committee shall not be required to review, at any given meeting, any revised regulation which was re-submitted less than fourteen (14) days before such meeting; in such cases the subcommitte, standing committees or interim committee may elect to review such re-submitted regulation at the next meeting.

The Committee on Health and Welfare reported **HB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 70, AN ACT relating to amygdalin (laetrile).

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:
Amygdalin (laetrile) is not a drug or a controlled substance under Kentucky statutes governing the use, manufacture, or distribution of drugs and controlled substances within the state. A physician may prescribe amygdalin (laetrile) pursuant to this Act if the patient so requests on a written informed request form.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:
Amygdalin (laetrile) shall only be available to a patient by prescription from his doctor and only after the patient affirms his desire for treatment using this substance by signing a written informed request form.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:
Nothing in this Act requires any physician, pharmacist, pharmacy, or manufacturer or distributor to manufacture, sell or distribute amygdalin (laetrile), and nothing in this Act requires any physician to prescribe amygdalin (laetrile) for any patient.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A physician may prescribe or administer amygdalin (laetrile) in lieu of or in addition to customary or accepted modes of therapy in the treatment of any malignancy, disease, illness or physical condition of a patient who has signed a written informed request.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

"Written informed request" is a form which shall be prepared and distributed by the state board of medical licensure and shall be in substance as follows:

WRITTEN INFORMED REQUEST
FOR PRESCRIPTION OF AMYGDALIN
(Laetrile) FOR MEDICAL TREATMENT AND
RELEASE OF PHYSICIAN FROM LIABILITY

Patient's Name ....
Address ....
Age...........Sex ....
Name and Address of prescribing physician:
....
....

Malignancy, disease, illness or physical condition diagnosed for medical treatment by amygdalin (laetrile) or its use as a dietary supplement:
....

My physician has explained to me:
(a) That the manufacture and distribution of amygdalin (laetrile) has been banned by the Federal Food and Drug Administration.
(b) That neither the American Cancer Society, the American Medical Association, nor the Kentucky Medical Association recommend use of amygdalin (laetrile) in the treatment of any malignancy, disease, illness or physical condition.
(c) That there are alternative recognized treatments for the malignancy, disease, illness or physical condition from which I suffer which he has offered to provide for me including: (here describe)..
....

That notwithstanding the foregoing, I hereby request prescription and use of amygdalin (laetrile)(a) in the medical treatment of the malignancy, disease, illness or physical condition from which I suffer [ ], or (b) as a dietary supplement [ ] (check (a) or (b)).

I hereby release the physician from any and all liability due to any deleterious consequences that may be directly attributable to the use of amygdalin (laetrile).

....
Patient or person signing for patient

ATTEST:

....
Prescribing physician

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A copy of each executed written informed request shall be forwarded by the physician within three (3) days of execution to the state board of health for filing.

SECTION 7. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

(1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Department for Human Resources. The secretary of the department shall adopt regulations which precribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary shall establish standards of purity and shall make periodic tests and inspections of both the facilities for manufacture and samples of the substance to ascertain the purity, quality and identity of the substance and to determine that the substance meets the standards so established.

(2) The Department for Human Resources shall make no rule or regulation which would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient surgical center or health care facility licensed by it.

SECTION 8. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Amygdalin (laetrile) manufactured in this state shall not be sold in interstate commerce. Violation of this prohibition is cause for immediate revocation of the license to manufacture, sell, or distribute amygdalin (laetrile). This does not preclude other legal action permitted under state and federal criminal statutes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A physician shall not be subjected to disciplinary action by the state board of health for prescribing or administering amygdalin (laetrile) to a patient under his care as an adjunct to recognized, customary or accepted modes of therapy in the treatment of any malignancy, disease, illness or physical condition, when the patient has signed a written informed request form.

(2) A physician shall not be held liable for malpractice or negligence if it is determined that a patient died from lack of customary or accepted modes of therapy, including but not limited to surgery, chemotherapy, and radiation, when the patient elected to use amygdalin (laetrile) as the sole treatment and signed a written informed request form for this substance.

(3) A physician shall not be held liable for malpractice or negligence if it is determined that a patient's medical condition deteriorated from lack of customary or accepted modes of therapy including but not limited to surgery, chemotherapy, and radiation; when the patient elected to use amygdalin (laetrile) as the sole treatment and signed a written informed request form for this substance.

SECTION 10. A NEW SECTION OF KRS CHAPTER 315 IS CREATED TO READ AS FOLLOWS:

The Kentucky board of pharmacy shall make no rule or regulation which would prohibit the sale and dispensing of amygdalin (laetrile) by a duly licensed pharmacist.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) When amygdalin (laetrile) is prescribed or administered by a physician holding a regular license for the practice of medicine in the state of Kentucky and the patient has signed a written informed request form, except as provided in subsection (2) of this section, a hospital or other health care facility shall not restrict or forbid the use of amygdalin (laetrile) in the treatment of any malignancy, disease, illness or physical condition.

(2) If the federal government states that it will withdraw all federal funds from a health care facility for allowing amygdalin (laetrile) to be used within the facility, and if providing or allowing its use within the facility would jeopardize the receipt of federal funds for reimbursement for medicine or medicaid for all persons within the facility, or any construction funds provided by the federal government under the Hill-Burton hospital construction program or under Title XVI of the Public Health Services Act, the hospital or other health care facility may, notwithstanding the provisions of subsection (1) of this section, prohibit the use of amygdalin (laetrile) within its facility.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as constituting an endorsement of amygdalin (laetrile) for the treatment of any malignancy, disease, illness, or physical condition, and nothing in this Act shall be construed as preventing a physician from prescribing amygdalin (laetrile) as a dietary supplement to a patient not suffering from any known malignancy, disease, illness, or physical condition upon execution of said written informed request.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person who manufactures, distributes, sells, or prescribes amygdalin (laetrile) in violation of the standards established by the secretary of the Department for Human Resources shall be punished by a fine of not less than five hundred dollars ($500) and not more than two thousand dollars ($2,000), or by imprisonment in the county jail for a period not to exceed six (6) months, or both. Each day of violation shall constitute a separate offense.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing herein shall be interpreted as an attempt to relieve physicians of liability for negligence or malpractice in the treatment of their patients under the standards established by KRS 311.595.

The Committee on Highways and Traffic Safety reported **HB 25,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 25, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, *mopeds,* vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour;

(4) [(3)] "Except as provided in subsection *(5)* [(4)] of this section, retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(5) [(4)] Notwithstanding the provisions of subsection *(4)* [(3)] of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

Section 2. KRS 138.560 is amended to read as follows:

As used in KRS 138.560 to 138.640 and subsection (16) of KRS 138.990, unless the context otherwise requires:

(1) "Department" means the department of revenue;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause prescribing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof;

(3) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210, and liquefied petroleum gas as defined in KRS 234.100;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle. *A moped as defined in KRS 138.450 shall be subject to the requirements of a motor vehicle as in KRS 138.560 to 138.640 and subsection (16) of KRS 138.990*;

(5) "Public highways" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(6) "Special fuels dealer" means any person who delivers special fuels into tanks or other containers equipped with a hose or other apparatus by which such fuel can be dispensed therefrom into the fuel tank of a motor vehicle.

Section 3. KRS 138.655 is amended to read as follows:

As used in KRS 138.655 to 138.725 and 138.990 (17) and (18), unless the context requires otherwise:

(1) "Department" means department of motor transportation;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle. *A moped as defined in KRS 138.450 shall be subject to the requirements of a motor vehicle as in KRS 138.655 to 138.725 and 138.990(17) and (18)*;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any truck or tractor-trailer combination having a total of three (3) or more axles. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer;

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsection (3) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.655 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.655 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter.

Section 4. KRS 186.010 is amended to read as follows:

(1) "Department" as used in KRS 186.400 to 186.640 means the department of transportation; except as specifically designated, "department" as used in KRS 186.020 to 186.270 means the department of transportation only with respect to motor vehicles, other than commercial vehicles; "department" as used in KRS 186.020 to 186.270 means the bureau of vehicle regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

(4) "Motor vehicle," *means* [as used] in KRS 186.020 to 186.260, [includes] all vehicles, as defined in paragraph (a) of subsection (7) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (7) of this section, which are self-propelled. *Motor vehicle shall not include a moped as defined in this section.*

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(6) [(5)] "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) [(6)] "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(8) [(7)](a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracts, or derives its power from overhead wires.

(9) [(8)] KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) [(9)] "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) [(10)] "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, side car attachments and motor vehicles registered under KRS 186.060.

Section 5. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle *or moped,* other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the department, except that a person who purchases a motor vehicle, or brings a motor vehicle into

the Commonwealth from another state shall make application for registration within five (5) days. The bill of sale or assigned title must be in the motor vehicle during this five-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050 (3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(4) The application and documents presented therewith shall be retained on file in the office of the clerk for a period of not less than seven (7) years.

Section 6. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be $11.50.

(2) The annual registration fee for each motorcycle *or moped* shall be $5.00, and for each sidecar attachment, $3.00.

(3) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle	Registration and Any Towed Unit Fee
0 — 6,000	$ 11.50
6,001-10,000	24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00

55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4)(a) Any farmer owning a truck having a gross weight of 30,000 pounds or less may have it registered as a farmer's truck and obtain a license for $11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 30,000 pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 30,000 pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm, and the vehicle registered will not be operated more than fifty (50) air miles from his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than fifty (50) air miles from the point at which such coal is mined, or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where

such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the bureau's certification to the department of transportation copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be $20.00 and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14)(a) The bureau of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to register his motor vehicle under this section shall first register such vehicle with the county clerk pursuant to KRS 186.020 for a fee of $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. The bureau shall promulgate regulations in accordance with KRS 186.050.

Section 7. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle *or moped* upon a highway secure an operator's license as provided in this chapter.

(2) All original biennial, renewal and duplicate licenses for the operation of motor vehicles *or mopeds* shall be issued by the department of transportation. No such license shall be issued until the application therefor has been certified by the department.

Section 8. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license for operation of a motor vehicle or a non-driver identification card shall apply in person to the circuit court clerk of the county in which he resides and make application upon a form furnished by the department. The application shall contain the full name and signature, date of birth, sex, and present resident address of the applicant and briefly describe him. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that

one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) Every person seeking a license for operating a motorcycle shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(6) Every person seeking a license for operating a moped shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(7) [(6)] Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.

(8) [(7)] Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo."

(9) [(8)] The department shall provide on each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

Section 9. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle *or moped,* would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

Section 10. KRS 187.290 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of transportation.

(2) "Highways" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for purpose of vehicular traffic.

(3) "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(4) "Motor vehicle" means every self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, *mopeds,* and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(6) [(5)] "License" means any operator's license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of operators.

(7) [(6)] "Nonresident" means every person who is not a resident of this state.

(8) [(7)] "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

(9) [(8)] "Operator" means every person who is in actual physical control of a motor vehicle.

(10) [(9)] "Owner" means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

(11) [(10)] "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle in the amount of ten thousand dollars ($10,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to said limit for one (1) person, in the amount of twenty thousand dollars ($20,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of five thousand dollars ($5,000) because of injury to or destruction of property of others in any one (1) accident.

(12) [(11)] "Registration" means registration certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(13) [(12)] "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

Section 11. KRS 189.040 is amended to read as follows:

(1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this section.

(2) Every motorcycle, *moped* and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this section.

(3) Except as hereinafter provided, the head lamps or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading;

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.

(5) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.

(6) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under subsection (5) of KRS 189.340, subsection (1) of KRS 189.370, KRS 189.375, and subsection (3) of KRS 189.560 other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

(7) Headlights arranged to provide a single distribution of light not supplemented by auxiliary driving lights shall be permitted on motor vehicles manufactured and sold prior to May 30, 1939, in lieu of multiple-beam road-lighting equipment, if the single distribution of light complies with the following requirements and limitations:

(a) The headlights shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty-five feet (25') ahead, project higher than a level of five (5) inches below the level of the center of the light from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands, at a distance of seventy-five (75) feet ahead;

(b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet;

(c) Whenever the operator of a motor vehicle approaches an oncoming vehicle within 500 feet, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. In no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.

(8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(9) Except as provided in any regulations adopted pursuant to KRS 189.287, bicycles need have only one light in front which will reveal clearly substantial objects at least fifty (50) feet ahead.

Section 12. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the department of transportation, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner; and

(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the department of transportation, at all times that the vehicle is in motion.

(3) The secretary of the department of transportation shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. He shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. He may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab *and excluding a moped as defined in this section.*

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

Section 13. KRS 189.752 is amended to read as follows:

(1) "State highway" means any public road maintained by the state bureau of highways.

(2) "Motor vehicle" means any vehicle propelled by an internal combustion engine capable of transporting persons or property. *Motor vehicle shall not mean "moped" as defined in KRS 189.285.*

(3) "Abandoned vehicle" means any automobile which is left upon the right-of-way of a state highway for seven days, whether or not it is fit for future use.

(4) "Owner" means the last registered owner.

Section 14. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.080 unless the context requires otherwise:

(1) "Motor vehicle dealer" means any person not excluded by subsection (2) of this section who:

(a) For commission, money or other thing of value, is engaged in the business of selling, exchanging, buying, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles; or

(b) Who is engaged wholly or in part in the business of selling motor vehicles, including motor driven cycles, whether or not such motor vehicles are owned by such person, firm or corporation.

(2) The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(3) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles.

(4) The term "board" means the motor vehicle dealers board.

(5) The term "commissioner" means the commissioner of vehicle regulation.

(6) "Motor vehicle" means any motor driven vehicle required to be registered or licensed before being operated upon the highways. *Motor vehicle shall not include moped as defined in this section.*

(7) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(8) [(7)] The term "bureau" means the bureau of vehicle regulation.

(9) [(8)] "Licensor" means either the commissioner or the bureau or both.

(10) [(9)] "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles.

(11) [(10)] "Distributor" or "wholesaler" means a person, resident or nonresident who sells or distributes motor vehicles to licensed motor vehicle dealers, or who maintains distributor representatives.

(12) [(11)] "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.

(13) [(12)] "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(14) [(13)] "Factory representative" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.

(15) [(14)] "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.

(16) [(15)] "Person" means a person, partnership, firm, corporation or association.

(17) [(16)] The term "new motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.

(18) [(17)] The term "franchise" means any written contract, agreement, or license between a motor vehicle dealer and a manufacturer, factory branch or distributor of new motor vehicles by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles.

Section 15. KRS 190.090 is amended to read as follows:

As used in KRS 190.090 to 190.140 unless the context or subject matter otherwise requires:

(1) "Person" means an individual, partnership, corporation, association, and any other group however organized.

(2) "Retail Instalment Sale" means any sale for other than business or commercial use evidenced by a retail instalment contract wherein retail buyer agrees to buy and retail seller agrees to sell a motor vehicle at a time sale price payable in two or more instalments. The cash sale price of the motor vehicle, the amount, if any, included for insurance and other benefits, official fees and the finance charge, shall together constitute the time sale price.

(3) "Retail Instalment Contract" means any agreement, entered into in this state, evidencing a retail instalment sale of a motor vehicle, other than for the purpose of resale, pursuant to which title to, or a lien upon the motor vehicle is retained by the retail seller as security for the retail buyer's obligation. This term includes a mortgage, conditional sale contract or any contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the time sale price of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such motor vehicle.

(4) "Motor Vehicle" means any device with a cash sale price of five thousand dollars ($5,000) or less, in, upon, or by which any person or property is, or may be transported or drawn upon a highway. The term does not include self-propelled wheelchairs and invalid tricycles, tractors, power shovels, road machinery, implements of husbandry and other agricultural machinery, or other machinery not designed primarily for highway transportation but which may incidentally transport persons or property on a highway, or devices which move upon or are guided by a track or travel through the air. *A moped as defined in KRS 190.010 shall be subject to the same requirements as a motor vehicle under this section.*

(5) "Retail Seller" or "Seller" means a person who sells or agrees to sell a motor vehicle under a retail instalment contract to a retail buyer.

(6) "Retail Buyer" or "Buyer" means a person who buys or agrees to buy a motor vehicle from a retail seller not for the purpose of resale and who executes a retail instalment contract in connection therewith.

(7) "Sales Finance Company" means a person engaged in the business of creating and holding or purchasing or acquiring retail instalment contracts from a retail seller. The term includes a bank, trust company, private banker, industrial bank, investment company or national bank, if so engaged.

(8) "Cash Sale Price" means the price at which the seller would in good faith sell to the buyer, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the retail instalment contract, if such sale were a sale for cash, instead of a retail instalment sale. The cash sale price may include any taxes, registration fees, certificate of title fees, if any, license fees, charges for delivery, servicing, repairing, or improving the motor vehicle, including accessories and their installation.

(9) "Official Fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail instalment contract.

(10) "Finance Charge" means that part of the time sale price by which it exceeds the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees included in the retail instalment sale.

(11) Words in the singular include the plural and vice versa.

Section 16. KRS 281.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) The term "carrier" or "motor carrier" means any person who owns, controls, operates, manages, or leases, except persons leasing to authorized carriers, any motor vehicle for the transportation of persons or property for hire upon any highway, and any person who engages in the business of U-drive-it. It shall include common and contract carriers by motor vehicle, city and suburban buses, driveaways and U-drive-its;

(2) The term "motor vehicle" means any motor propelled vehicle used for the transportation of persons or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles, and including vehicles propelled by electric power obtained from overhead wires whether operating over rails or otherwise. *Motor vehicle shall not mean moped as defined in this section.*

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(4) [(3)] The term "common carrier" means any person who holds himself out to the general public to engage in the transportation by motor vehicle of persons or property in intrastate or interstate commerce over regular routes, except that persons holding irregular route common carrier authority granted by the interstate commerce commission, taxicabs, and local cartage vehicles are not required to move over regular routes;

(5) [(4)] The term "irregular route common carrier" means any person who holds himself out to the general public to engage in the transportation by motor vehicle over irregular routes of specific commodities which have been, or will be, designated by the department as exempted commodities, including specific commodities removed from the exempted commodity list by the department where the right to engage in the transportation of same has been properly grandfathered into the appropriate authority under the applicable statutes;

(6) [(5)] The term "contract carrier" means any person who, under individual contracts or agreements, engages in the transportation, other than transportation referred to in subsections [(3) and] (4) *and (5)* of this section by motor vehicle of passengers or property in interstate or intrastate commerce.

(7) [(6)] The term "driver" or "chauffeur" means the person physically operating the motor vehicle;

(8) [(7)] The term "regular seat" means a seat ordinarily and customarily used by one (1) passenger and in determining such seating capacity the manufacturer's rating may be considered.

Section 17. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him;

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means:

(a) A vehicle of a kind required to be registered under KRS Chapter 186. *Motor vehicle shall not mean moped as defined in this section.*

(8) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(9) [(8)] "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) [(9)] "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) [(10)] "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) [(11)] "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) [(12)] "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) [(13)] "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) [(14)] A "User" means a person who is a basic reparation insured or would be a basic reparation insured if such person had not rejected the limitations upon his tort rights as provided in KRS 304.39-060(4).

(16) [(15)] "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) [(16)] "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Section 18. KRS 371.210 is amended to read as follows:

As used in KRS 371.210 to 371.330, unless the context otherwise requires:

(1) "Goods" means all tangible chattels personal when purchased primarily for personal, family or household use and not for commercial, industrial or agricultural use, but not including motor vehicles as herein defined, money, things in action or intangible personal property other than merchandise certificates or coupons as herein described. The term includes such chattels which are furnished or used, at the sale of or subsequently, in the modernization, rehabilitation, repair, alteration, improvement or construction of real property as to become a part thereof whether or not severable therefrom. The term also includes merchandise certificates or coupons, issued by a retail seller, not redeemable in cash and to be used in their face amount in lieu of cash.

(2) "Services" means work, labor or services of any kind when purchased primarily for personal, family or household use and not for commercial or business use, but not including services for which the prices charged are required by law to be determined or approved by or to be filed, subject to approval or disapproval, with the United States or any state, or any department, division, agency, officer or official of either as in the case of transportation services.

(3) "Motor vehicle" means any automobile, mobile home, motorcycle, truck trailer, semitrailer, truck tractor and bus designed and used primarily to transport persons or property on a public highway, or any vehicle designed to run only on rails or tracks or in the air, excepting however, any boat trailer and any vehicle propelled or drawn exclusively by muscular power. *A moped as defined in this section shall be subject to the same requirements as a motor vehicle as defined in KRS 371.320 to 371.330.*

(4) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, a single speed automatic transmission, and capable of a maximum speed of no more than thirty (30) miles per hour.

(5) [(4)] "Retail buyer" or "buyer" means a person who buys or agrees to buy goods or obtain services or agrees to have services rendered or furnished, from a retail seller.

(6) [(5)] "Retail seller" or "seller" means a person regularly and principally engaged in the business of selling goods to retail buyers.

(7) [(6)] "Retail installment transaction" means any transaction in which a retail buyer purchases goods or services from a retail seller pursuant to a retail installment contract or a retail charge agreement, as defined in this Section, which provides for a time price differential, as defined in this Section, and under which the buyer agrees to pay the unpaid balance in one or more installments.

(8) [(7)] "Retail installment contract" means an instrument, other than a retail charge agreement or an instrument reflecting a sale made pursuant thereto, entered into in this state evidencing a retail installment transaction. The term "Retail Installment Contract" may include a chattel mortgage, a Security Agreement, a conditional sale contract and a contract in the form of a bailment or a lease if the bailee or lessee contracts to pay as compensation for their use a sum substantially equivalent to or in excess of the value of the goods sold and if it is agreed that the bailee or lessee is bound to become, or for no other or a merely nominal consideration, has the option of becoming the owner of the goods upon full compliance with the provisions of the bailment or lease.

(9) [(8)] "Retail charge agreement" means an instrument prescribing the terms of retail installment transactions which may be made thereunder from time to time and under the terms of which a time price differential, as defined in this Section, is to be computed in relation to the buyer's unpaid balance from time to time.

(10) [(9)] "Time price differential" however denominated or expressed, means the amount which is paid or payable for the privilege of purchasing goods or services to be paid for by the buyer in installments over a period of time. It does not include the amount, if any, charged for insurance premiums, delinquency charges, attorneys fees, court costs, or official fees.

(11) [(10)] "Cash sale price" means the price stated in a retail installment contract or in a sales slip or other memorandum furnished by a retail seller to a retail buyer under or in connection with a retail charge agreement, for which the seller would have sold or furnished to the buyer and the buyer would have bought or obtained from the seller the goods or services which are the subject matter of a retail installment transaction, if the sale had been a sale for cash. The cash sale price may include any taxes and charges for delivery, installation, servicing, repairs, alterations or improvements.

(12) [(11)] "Official fees" means the amount of the fees prescribed by law for filing, recording or otherwise perfecting, and releasing or satisfying, a retained title, lien or other security interest created by a retal installment transaction.

(13) [(12)] "Time sale price" means the total of the cash sale price of the goods or services and the amount, if any, included for insurance, if a separate identified charge is made therefor, and the official fees and the time price differential.

(14) [(13)] "Principal balance" means the cash sale price of the goods or services which are the subject matter of a retail installment contract plus the amounts, if any, included therein, if a separate identified charge is made therefor and stated in the contract, for insurance and official fees, less the amount of the buyer's down payment in money or goods or both.

(15) [(14)] "Holder" means the retail seller of the goods or services under the retail installment contract or retail charge agreement or the assignee if the retail installment contract or the retail charge agreement or any indebtedness under either has been sold or otherwise transferred.

(16) [(15)] "Person" means an individual, partnership, joint venture, corporation, association or any other group, however organized.

(17) [(16)] Words of the masculine gender include the feminine and the neuter and, when the sense so indicates, words of the neuter gender may refer to any gender.

The Committee Substitute to **HB 25** is as follows:

HB 25, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, *mopeds,* vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) [(3)] "Except as provided in subsection *(5)* [(4)] of this section, retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be 90% of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(5) [(4)] Notwithstanding the provisions of subsection *(4)* [(3)] of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

Section 2. KRS 186.010 is amended to read as follows:

(1) "Department" as used in KRS 186.400 to 186.640 means the department of transportation; except as specifically designated, "department" as used in KRS 186.020 to 186.270 means the department of transportation only with respect to motor vehicles, other than commercial vehicles; "department" as used in KRS 186.020 to 186.270 means the bureau of vehicle regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

(4) "Motor vehicle," *means* [as used] in KRS 186.020 to 186.260, [includes] all vehicles, as defined in paragraph (a) of subsection (7) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (7) of this section, which are self-propelled. *Motor vehicle shall not include a moped as defined in this section.*

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(6) [(5)] "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) [(6)] "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(8) [(7)](a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracts, or derives its power from overhead wires.

(9) [(8)] KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) [(9)] "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) [(10)] "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, side car attachments and motor vehicles registered under KRS 186.060.

Section 3. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle *or moped,* other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the department, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within five (5) days. The bill of sale or assigned title must be in the motor vehicle during this five-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2) After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050 (3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the department.

(4) The application and documents presented therewith shall be retained on file in the office of the clerk for a period of not less than seven (7) years.

Section 4. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be $11.50.

(2) The annual registration fee for each motorcycle *or moped* shall be $5.00, and for each sidecar attachment, $3.00. *The department of transportation may use motorcycle registration plates as a registration plate for a moped.*

(3) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle	Registration and Any Towed Unit Fee
0 — 6,000	$ 11.50
6,001-10,000	24.00
10,001-14,000	30.00

14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4)(a) Any farmer owning a truck having a gross weight of 30,000 pounds or less may have it registered as a farmer's truck and obtain a license for $11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 30,000 pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 30,000 pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm, and the vehicle registered will not be operated more than fifty (50) air miles from his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws

granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than fifty (50) air miles from the point at which such coal is mined, or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the bureau's certification to the department of transportation copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be $20.00 and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14)(a) The bureau of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to register his motor vehicle under this section shall first register such vehicle with the county clerk pursuant to KRS 186.020 for a fee of $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. The bureau shall promulgate regulations in accordance with KRS 186.050.

Section 5. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle *or moped* upon a highway secure an operator's license as provided in this chapter.

(2) All original biennial, renewal and duplicate licenses for the operation of motor vehicles *or mopeds* shall be issued by the department of transportation. No such license shall be issued until the application therefor has been certified by the department.

Section 6. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license for operation of a motor vehicle, *motorcycle, moped* or a non-driver identification card shall apply in person to the circuit court clerk of the county in which he resides and make application upon a form furnished by the department. The application shall contain the full name and signature, date of birth, sex, and present resident address of the applicant and briefly describe him. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) [Every person seeking a license for operating a motorcycle shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.]

[(6)] Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.

(6) [(7)] Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo."

(7) [(8)] The department shall provide on each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

Section 7. KRS 186.450 is amended to read as follows:

(1) Any person who, except for his lack of instruction in operating a motor vehicle, would otherwise be qualified to obtain a permanent operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession and be accompanied by a licensed operator occupying the seat beside the operator at all times while operating a motor vehicle upon the highway.

(2) Any person who, except for his lack of instruction in operating a motorcycle *or moped,* would otherwise be qualified to obtain a permanent motorcycle operator's license, may make application for and obtain an instruction permit, to be issued by the circuit court clerk in the county of the applicant's residence, and such permit shall be valid for not more than sixty (60) days. The permit holder shall have this permit in his possession at all times while operating a motorcycle upon the highway.

(3) The clerk may, after determining that the applicant has fully complied with the laws governing the issuance of instruction permits, shall upon the request of the applicant issue a permanent moped license. Any valid motor vehicle operator license may also be used in the operation of a moped.

Section 8. KRS 187.290 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of transportation.

(2) "Highways" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for purpose of vehicular traffic.

(3) "Judgment" means any judgment which has become final by expiration without appeal of the time within which an appeal might have been perfected, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action arising out of the ownership, maintenance or use of any motor vehicle, for damages, including damages for care and loss of

services, because of bodily injury to or death of any person, or for damages because of injury to or destruction of property, including the loss of use thereof, or upon a cause of action on an agreement of settlement for such damages.

(4) "Motor vehicle" means every self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles (except traction engines, road rollers, farm tractors, tractor cranes, power shovels, *mopeds,* and well drillers) and every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails.

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(6) [(5)] "License" means any operator's license, temporary instruction permit or temporary license issued under the laws of this state pertaining to the licensing of operators.

(7) [(6)] "Nonresident" means every person who is not a resident of this state.

(8) [(7)] "Nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him of a motor vehicle, or the use of a motor vehicle owned by him, in this state.

(9) [(8)] "Operator" means every person who is in actual physical control of a motor vehicle.

(10) [(9)] "Owner" means a person who holds the legal title of a motor vehicle, or in the event a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of this chapter.

(11) [(10)] "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle in the amount of ten thousand dollars ($10,000) because of bodily injury to or death of one (1) person in any one (1) accident, and, subject to said limit for one (1) person, in the amount of twenty thousand dollars ($20,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident, and in the amount of five thousand dollars ($5,000) because of injury to or destruction of property of others in any one (1) accident.

(12) [(11)] "Registration" means registration certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles.

(13) [(12)] "State" means any state, territory or possession of the United States, the District of Columbia, or any province of the Dominion of Canada.

Section 9. KRS 189.040 is amended to read as follows:

(1) Every motor vehicle other than a motorcycle or motor-driven cycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this section.

(2) Every motorcycle, *moped* and every motor-driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this section.

(3) Except as hereinafter provided, the head lamps or the auxiliary driving lamps or the auxiliary passing lamp or combinations thereof on motor vehicles other than a motorcycle or motor-driven cycle shall be so arranged that the driver may control the selection between distribution of light projected to different elevations, subject to the following requirements and limitations:

(a) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading;

(b) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(c) Every new motor vehicle, other than a motorcycle or motor-driven cycle, registered in this state after January 1, 1956, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

(4) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in KRS 189.030, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the requirements and limitations hereinafter set forth.

(5) Whenever a driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in paragraph (b) of subsection (3) of this section shall be deemed to avoid glare at all times, regardless of road contour and loading.

(6) Whenever the driver of a vehicle follows another vehicle within 200 feet to the rear, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under subsection (5) of KRS 189.340, subsection (1) of KRS 189.370, KRS 189.375, and subsection (3) of KRS 189.560 other than the uppermost distribution of light specified in paragraph (a) of subsection (3) of this section.

(7) Headlights arranged to provide a single distribution of light not supplemented by auxiliary driving lights shall be permitted on motor vehicles manufactured and sold prior to May 30, 1939, in lieu of multiple-beam road-lighting equipment, if the single distribution of light complies with the following requirements and limitations:

(a) The headlights shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light shall, at a distance of twenty-five feet (25') ahead, project higher than a level of five (5) inches below the level of the center of the light from which it comes, and in no case higher than forty-two (42) inches above the level on which the vehicle stands, at a distance of seventy-five (75) feet ahead;

(b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet;

(c) Whenever the operator of a motor vehicle approaches an oncoming vehicle within 500 feet, he shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the oncoming driver. In no case shall the high intensity portion which is projected to the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.

(8) Flashing lights are prohibited on all motor vehicles except as a means for indicating a right or left turn or for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.

(9) Except as provided in any regulations adopted pursuant to KRS 189.287, bicycles need have only one light in front which will reveal clearly substantial objects at least fifty (50) feet ahead.

Section 10. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the department of transportation, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner; and

(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the department of transportation, at all times that the vehicle is in motion.

(3) The secretary of the department of transportation shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. He shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. He may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab *and excluding a moped as defined in this section.*

(5) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

Section 11. KRS 189.752 is amended to read as follows:

(1) "State highway" means any public road maintained by the state bureau of highways.

(2) "Motor vehicle" means any vehicle propelled by an internal combustion engine capable of transporting persons or property. *Motor vehicle shall not mean "moped" as defined in KRS 189.285.*

(3) "Abandoned vehicle" means any automobile which is left upon the right-of-way of a state highway for seven days, whether or not it is fit for future use.

(4) "Owner" means the last registered owner.

Section 12. KRS 190.010 is amended to read as follows:

As used in KRS 190.010 to 190.080 unless the context requires otherwise:

(1) "Motor vehicle dealer" means any person not excluded by subsection (2) of this section who:

(a) For commission, money or other thing of value, is engaged in the business of selling, exchanging, buying, offering or attempting to negotiate a sale or exchange of an interest in motor vehicles; or

(b) Who is engaged wholly or in part in the business of selling motor vehicles, including motor driven cycles, whether or not such motor vehicles are owned by such person, firm or corporation.

(2) The term "motor vehicle dealer" does not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution which is subject to state or federal regulation as such, with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employes of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as such employes.

(3) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles.

(4) The term "board" means the motor vehicle dealers board.

(5) The term "commissioner" means the commissioner of vehicle regulation.

(6) "Motor vehicle" means any motor driven vehicle required to be registered or licensed before being operated upon the highways. *Motor vehicle shall not include moped as defined in this section.*

(7) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(8) [(7)] The term "bureau" means the bureau of vehicle regulation.

(9) [(8)] "Licensor" means either the commissioner or the bureau or both.

(10) [(9)] "Manufacturer" means any person, resident or nonresident who manufactures or assembles motor vehicles.

(11) [(10)] "Distributor" or "wholesaler" means a person, resident or nonresident who sells or distributes motor vehicles to licensed motor vehicle dealers, or who maintains distributor representatives.

(12) [(11)] "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles, for the sale of motor vehicles to distributors, or for the sale of motor vehicles to motor vehicle dealers or for directing or supervising in whole or part, its representatives.

(13) [(12)] "Distributor branch" means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(14) [(13)] "Factory representative" means a representative employed by a person who manufactures or assembles motor vehicles or by a factory branch, for the purpose of making or promoting the sale of its motor vehicles, or for supervising or contacting its dealers or prospective dealers.

(15) [(14)] "Distributor representative" means a representative similarly employed by a distributor, distributor branch or wholesaler.

(16) [(15)] "Person" means a person, partnership, firm, corporation or association.

(17) [(16)] The term "new motor vehicle" means a motor vehicle which, after its final assembly, is either in the possession of the manufacturer, factory branch or distributor, or an authorized dealer operating under a franchise with the manufacturer, factory branch or distributor, and the legal or equitable title to which has never been the subject of a sale or transfer other than to another dealer operating under a similar franchise with the same manufacturer, factory branch or distributor.

(18) [(17)] The term "franchise" means any written contract, agreement, or license between a motor vehicle dealer and a manufacturer, factory branch or distributor of new motor vehicles by which the dealer is authorized to engage in the business of selling any specified make or makes of new motor vehicles.

Section 13. KRS 190.090 is amended to read as follows:

As used in KRS 190.090 to 190.140 unless the context or subject matter otherwise requires:

(1) "Person" means an individual, partnership, corporation, association, and any other group however organized.

(2) "Retail Instalment Sale" means any sale for other than business or commercial use evidenced by a retail instalment contract wherein retail buyer agrees to buy and retail seller agrees to sell a motor vehicle at a time sale price payable in two or more instalments. The cash sale price of the motor vehicle, the amount, if

any, included for insurance and other benefits, official fees and the finance charge, shall together constitute the time sale price.

(3) "Retail Instalment Contract" means any agreement, entered into in this state, evidencing a retail instalment sale of a motor vehicle, other than for the purpose of resale, pursuant to which title to, or a lien upon the motor vehicle is retained by the retail seller as security for the retail buyer's obligation. This term includes a mortgage, conditional sale contract or any contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to the time sale price of the motor vehicle and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of such motor vehicle.

(4) "Motor Vehicle" means any device with a cash sale price of five thousand dollars ($5,000) or less, in, upon, or by which any person or property is, or may be transported or drawn upon a highway. The term does not include self-propelled wheelchairs and invalid tricycles, tractors, power shovels, road machinery, implements of husbandry and other agricultural machinery, or other machinery not designed primarily for highway transportation but which may incidentally transport persons or property on a highway, or devices which move upon or are guided by a track or travel through the air. *A moped as defined in KRS 190.010 shall be subject to the same requirements as a motor vehicle under this section.*

(5) "Retail Seller" or "Seller" means a person who sells or agrees to sell a motor vehicle under a retail instalment contract to a retail buyer.

(6) "Retail Buyer" or "Buyer" means a person who buys or agrees to buy a motor vehicle from a retail seller not for the purpose of resale and who executes a retail instalment contract in connection therewith.

(7) "Sales Finance Company" means a person engaged in the business of creating and holding or purchasing or acquiring retail instalment contracts from a retail seller. The term includes a bank, trust company, private banker, industrial bank, investment company or national bank, if so engaged.

(8) "Cash Sale Price" means the price at which the seller would in good faith sell to the buyer, and the buyer would in good faith buy from the seller, the motor vehicle which is the subject matter of the retail instalment contract, if such sale were a sale for cash, instead of a retail instalment sale. The cash sale price may include any taxes, registration fees, certificate of title fees, if any, license fees, charges for delivery, servicing, repairing, or improving the motor vehicle, including accessories and their installation.

(9) "Official Fees" means the fees prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail instalment contract.

(10) "Finance Charge" means that part of the time sale price by which it exceeds the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees included in the retail instalment sale.

(11) Words in the singular include the plural and vice versa.

Section 14. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him;

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include (i) conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises, or (ii) conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means:

(a) A vehicle of a kind required to be registered under KRS Chapter 186. *Motor vehicle shall not mean moped as defined in this section.*

(8) "Moped" means a pedal bicycle with a helper motor rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(9) [(8)] "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) [(9)] "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) [(10)] "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) [(11)] "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) [(12)] "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) [(13)] "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) [(14)] A "User" means a person who is a basic reparation insured or would be a basic reparation insured if such person had not rejected the limitations upon his tort rights as provided in KRS 304.39-060(4).

(16) [(15)] "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) [(16)] "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Calendar

HB 7 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Imes moved that **HB 180** be recommitted to the Committee on State Government. Agreed.

Representative Romines moved that **HB 67** be taken from the Clerk's desk and placed in Orders of the Day.

On the roll call the vote was yeas 72-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Richards, B. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 0.

The motion that **HB 67** be taken from the Clerk's desk and placed in Orders of the Day was adopted.

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brinkley, **HB 288;** Representative Cyrus, **HB 120;** Representative Head, **HB 264;** Representative Hurst, **HB 271;** Representative Imes, **HB 241.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 68** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 91, as amended by Committee Amendment No. 1, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the following Floor Amendment No. 1 to **HB 91:**

Amend printed copy of **HB 91,** page 2, line 10, by adding following line 10 the following:

"*(f) He has executed a bond in the amount of five thousand dollars ($5,000) with good and sufficient surety and deposited it in the office of the circuit clerk.*"

On the roll call the vote was yeas 10-Bennett, Brown, Cyrus, Dawahare, Deskins, Gray, Head, Noe, Thomas, Van Horn. Nays 49-Adams, J. Allen, W. Allen, Bendl, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Craddock, Crupper, Davenport, DeFalaise, DeMarcus, Donnermeyer, Dunn, Fitzgerald, Foster, Guy, Haering, Hancock, Hines, Holloway, Hurst, Johnson, Jones, Kenton, Layman, LeMaster, List, Mann, Marcum, McBee, McKinney, McNutt, Pearman, Richards, B. Richardson, Riner, F. Smith, R. Smith, Stone, Weinberg, Wilborn, Williams, Worthington.

The motion that Floor Amendment No. 1 to **HB 91** be adopted was rejected.

Representative Donnermeyer moved the adoption of the following Floor Amendment No. 2 to **HB 91:**

Amend printed copy of **HB 91,** page 1, lines 8-10, by deleting brackets on line 8; by substituting on line 8 the word *Commonwealth of Kentucky* after the word "the" and deleting the words [county wherein he is appointed to serve]; by adding on line 10 the word *and has resided in the county wherein he is appointed to serve for a period of at least six months.*

On the roll call the vote was yeas 69-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hurst, Imes, Jones, Kenton, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Van Horn, Weinberg, White, Wilborn, Williams, Worthington. Nays 6-W. Allen, Crupper, Holbrook, Holloway, Isler, Johnson.

Floor Amendment No. 2 to **HB 91** was adopted.

Representative Donnermeyer moved that **HB 91,** as amended, be passed.

On the roll call the vote was yeas 70-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kleier, Layman, List, Mann, Marcum, May, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 9-W. Allen, Crupper, Deskins, Fitzgerald, Holbrook, Johnson, LeMaster, Little, McBee.

HB 91, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 91** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 55 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 55** be passed.

On the roll call the vote was yeas 77-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith R. Smith,Stone, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 2-Donnermeyer, McBee.

HB 55 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 55** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 57** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 119, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Amendment to **HB 119.**

On the roll call the vote was yeas 74-Adams, J. Allen, W. Allen, Arnold, Bendle, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McBee, McKinney, McNutt, Morris, O'Brien, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, F. Fmith, R. Smith, Stone, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 0.

Committee Amendment to **HB 119** was adopted.

Representative Hancock moved that **HB 119** as amended be passed.

On the roll call the vote was yeas 67-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kleier, Layman, Lindsay, List, Little, Marcum, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Pearman, Petty, Priddy, Richards, B. Richardson, Riner, Romines, F. Smith, R. Smith, Stone, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 3-W. Allen, Deskins, Holbrook.

HB 119, as amended, was passed andthe title agreed to.

Representative Hancock moved that the vote by which **HB 119,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HJR 5 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HJR 5** be postponed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 0.

HJR 5 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HJR 5** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 67, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the Committee Amendment to **HB 67.**

On the roll call the vote was yeas 62-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Burch, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Kenton, Kleier, Layman, Lindsay, List, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, F. Smith, R. Smith, Stone, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 5-Adams, W. Allen, Bruce, DeMarcus, Fitzgerald.

The Committee Amendment to **HB 67** was adopted.

Representative Romines moved that **HB 67** as amended be passed.

On the roll call the vote was yeas 58-Adams, Arnold, Bendl, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Kenton, Kleier, Layman, LeMaster, Lindsay, Little, Marcum, May, McKinney, McNutt, Morris, O'Brien, Pearman, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, R. Smith, Stone, Van Horn, Weinberg, White, Williams, Yates. Nays 15-J. Allen, W. Allen, Beshear, Bruce, Clapp, Crupper, DeMarcus, Donnermeyer, Imes, Johnson, List, Mann, McBee, Patrick, Wilborn.

HB 67, as amended, was passed.

Representative Romines moved the adoption of the following Floor Amendment No. 1 (Title) to **HB 67:**

Amend printed copy of **HB 67,** page 1, by amending the title to read as follows:

"AN ACT relating to motor vehicle operators' licenses."

The Floor Amendment No. 1 (Title) to **HB 67** was adopted.

Representative Romines moved that the vote by which **HB 67,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HJR 15.**

Recess

Representative B. Richardson moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

Representative B. Richardson moved that the rules be suspended for the purpose of introduction of reference of a Resolution and the waiving of the three-day posting period required in connection with the Resolution to be introduced. Agreed.

Introduction of Bills and Resolutions

HJR 34, by Representatives Kenton, Kleier, B. Richardson, Donnermeyer, Wells, and Clapp: A JOINT RESOLUTION relating to a state of emergency and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk announced that **HJR 34** has been referred to the Committee on Appropriations and Revenue by the Committee on Committees.

Representative B. Richardson moved that **HJR 34** be read at length. Agreed.

Representative B. Richardson moved that the rules be suspended to allow for a call of the roll to show co-sponsors of **HJR 34.** Agreed.

The following members voted to co-sponsor **HJR 34:** J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Noe, O'Brien, Pearman, Petty, Priddy,Rattliff, Richards, Riner, Robinson, Romines, F. Smith, R. Smith, Stone, Van Horn, Weinberg, White, Williams, Worthington, Yates.

Representative B. Richardson moved that the rules be suspended to allow the posting of **HJR 34.** Agreed.

Representative B. Richardson moved that the rules be suspended to allow the Committee on Appropriations to meet on recess. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Resolution has been posted for Committee consideration:

Appropriations and Revenue: **HJR 34.**

Recess

Representative B. Richardson moved that the House recess for five minutes for a meeting of the Committee on Appropriations and Revenue. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

The Committee on Enrollment reported **HJR 15** had been examined and found correctly enrolled. **HJR 15** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Representative B. Richardson moved that the rules be suspended for Report of Committees.

Report of Committees

The Committee on Appropriations and Revenue reported **HJR 34** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 34, A JOINT RESOLUTION relating to a state of emergency and making an appropriation therefor.
WHEREAS, the people of the Commonwealth of Kentucky are suffering the effects of severe and unusual weather and their lives and property are currently endangered; and
WHEREAS, the Governor has declared a state of emergency to exist within the Commonwealth and has requested the President of the United States to declare the Commonwealth of Kentucky a Disaster Area; and
WHEREAS, all funds available for alleviation of the personal suffering and repair of property damages of our citizens are nearly exhausted and a desperate need exists for moneys to be expended to meet these crises;
NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is appropriated from the General Fund to the Governor's Contingency Fund for fiscal year 1977-78 the sum of $2 million ($2,000,000).

Section 2. Whereas, there is an immediate and critical need for funds to alleviate the personal suffering and property damage inflicted upon the citizens of the Commonwealth of Kentucky by severe and inclement weather conditions, an emergency is hereby declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Announcements

The Clerk announced a meeting of the Committee on Rules, five minutes after adjournment, Room 307.

Representative Isler requested that he be recorded as voting "yea" instead of "nay" on Floor Amendment No. 2 to **HB 91.**

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, January 27, 1978.

On the roll call the vote was yeas 46-W. Allen, Arnold, Bendl, Bennett, Benson, Boswell, Brown, Bruce, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Donnermeyer, Foster, Haering, Hines, Holbrook, Holloway, Isler, Kenton, Layman, Lindsay, List, Mann, Marcum, McBee, McKinney, Morris, Noe, O'Brien, Pearman, Petty, Rattliff, Richards, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Van Horn, Wilborn, Worthington. Nays 7-Deskins, Gray, Imes, LeMaster, Patrick, Priddy, Williams.

The motion to adjourn was adopted.

FRIDAY, JANUARY 27, 1978

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Representative Albert Robinson.

The roll was called. All present except Representatives Beshear, Blythe, Gay, Guenthner, Kidd, Maynard, Overstreet, Plummer, P. Richardson, Sale, Siemens, Stewart, Trevey, Turner and Wright.

Representative Isler moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 26, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 315, by Representative LeMaster: AN ACT proposing to amend Section 36 of the Constitution of Kentucky relating to the meeting of the General Assembly.

HB 316, by Representative Gray, Holloway, W. Allen, Cyrus, Holbrook, Imes and Yates: AN ACT relating to restriction of work on certain days.

HB 317, by Representative Jones: AN ACT relating to real estate transfer taxation.

HB 318, by Representatives Mann, Dunn, Bennett, Brown, Burnette, Dietz, Guy, Fitzgerald, Holloway, Kleier, Isler, Petty, Priddy, Thomas and Van Horn: AN ACT relating to the practice of nursing.

HB 319, by Representatives Tobin and Layman: AN ACT relating to state legislative districts.

HJR 35, by Representatives Fitzgerald, Hancock, Imes, Benson, Clapp, Clarke, Davenport, DeMarcus, Donnermeyer, Dunn, Kenton, Kleier, LeMaster, Mann, Marcum, McBee, Richards, B. Richardson, Schmidt, R. Smith and Wells: A JOINT RESOLUTION directing the Legislative Research Commission to study the feasibility of constructing a legislative office building and making an appropriation therefor.

Senate Message

Announcing passage of **SB 84, SB 68,** and **SB 76.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 310, HCR 33.**

Business Organizations and Professions: **HB 311.**

Cities: **HB 309, HB 314.**

Education: **SB 43, SB 49.**

Elections and Constitutional Amendments: **HB 300.**

Health and Welfare: **HB 302, HB 305.**

Highways and Traffic Safety: **HB 303, HB 308.**

Judiciary-Statutes: **HB 304, HB 307.**

Labor and Industry: **HB 312.**

Public Utilities and Transportation: **HB 306.**

State Government: **HB 301, HB 313, SB 7, SB 35.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 179.**

Education: **HJR 24, SB 23, SB 24, SB 27, SB 29.**

Judiciary-Statutes: **HB 256, HB 281, HB 282.**

Cities: **HB 257.**

Report of Committees

The Committee on Rules reported **HB 16** has been posted for passage in Orders of the Day, January 31, 1978.

The Committee on Rules reported **HB 7** has been recommitted to the Committee on Appropriations and Revenue for fiscal review.

Calendar

HCR 26, HB 190, HB 70, HB 25, and **HR 34** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative LeMaster moved that **HB 280** be taken from the Committee on Judiciary-Statutes and sent to the Committee on Judiciary-Courts. Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recommitting **HB 52** to the Committee on Public Utilities and Transportation.

On the roll call the vote was yeas 44-Adams, J. Allen, W. Allen, Arnold, Bendl, Clapp, Craddock, Cyrus, Dawahare, Deskins, Dunn, Foster, Gray, Guy, Head, Hines, Holbrook, Holloway, Hurst, Jones, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Patrick, Pearman, Petty, Rattliff, Richards, B. Richardson, Riner, Tobin, Van Horn, Wells, White, Williams, Yates. Nays 21-Bennett, Boswell, Bruce, Burch, Burnette, DeFalaise, DeMarcus, Dietz, Donnermeyer, Hancock, Imes, Isler, Johnson, Mann, F. Smith, R. Smith, Stone, Thomas, Weinberg, Wilborn, Worthington.

The motion that the rules be suspended was rejected.

Representative Mann moved that the rules be suspended for the purpose of Posting Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 212.**

State Government: **HB 221, SB 77.**

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Arnold, **HB 264;** Representative Boatwright, **HB 287, HB 288;** Representative Boswell, **HB 299;** Representative Dawahare, **HB 271;** Representative Guy, **HB 264;** Representative O'Brien, **HB 94;** Representative Richards, **HB 83, HB 135, HB 143, HB 156, HB 299.**

Representative DeMarcus moved that a call of the roll be taken to show co-sponsors of **HJR 35.** Agreed.

The following members voted to co-sponsor **HJR 35:** W. Allen, Bendl, Bennett, Boatwright, Brown, Bruce, Burch, Clapp, Crupper, Davenport, Dawahare, DeMarcus, Dietz, Fitzgerald, Guy, Haering, Hancock, Isler, Layman, List, Marcum, McKinney, McNutt, Morris, Patrick, Petty, Priddy, Rattliff, Robinson, Romines, Schmidt, R. Smith.

Orders of the Day

Representative B. Richardson moved that consideration of **HB 68, HB 57** and **HB 4** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 52 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 52** be passed.

Representative Deskins moved that **HB 52** be laid on the table.

On the roll call the vote was yeas 44-Adams, J. Allen, W. Allen, Arnold, Boatwright, Brinkley, Clapp, Craddock, Crupper, Cyrus, Deskins, Dunn, Foster, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Jones, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McBee, McKinney, McNutt, Patrick, Pearman, Petty, Rattliff, Richards, Robinson, Romines, R. Smith, Tobin, Van Horn, White, Worthington. Nays 35-Bendl, Bennett, Benson, Blandford, Boswell, Bruce, Burch, Burnette, Clarke, Davenport, Dawahare, DeMarcus, Donnermeyer, Fitzgerald, Hancock, Imes, Isler, Johnson, Kleier, Mann, Morris, Nett, Noe, O'Brien, Priddy, B. Richardson, Riner, Schmidt, F. Smith, Stone, Thomas, Weinberg, Wilborn, Williams, Yates.

HB 52 was laid on the table.

Representative B. Richardson moved that consideration of **HB 101** be deferred and that it retain its position in Orders of the Day. Agreed.

Report on Enrolled Bills

HJR 15 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion concerning posting. Agreed.

Representative B. Richardson moved that the posting requirement in regard to **HJR 34** be waived. Agreed.

Representative B. Richardson moved that when the House adjourns it do so until 4 p.m., Tuesday, January 31, 1978, and that it do so by voice vote.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for a meeting of the Committee on Rules and the Committee on Appropriations and Revenue. Agreed.

At the appointed hour the Speaker resumed the Chair and called the House to order.

Recess

Representative B. Richardson moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative B. Richardson moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Rules reported **HCR 26, HB 190, HB 70** and **HB 25** have been posted for passage in Orders of the Day January 31, 1978.

The Committee on Rules reported **HJR 34** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Appropriations and Revenue reported **HJR 34,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment to **HJR 34** is as follows:

Amend printed copy of **HR 34,** page 2, line 4, by adding the following:

Section 3. (1) Within thirty (30) days following the allotment of funds appropriated by this Act from the Governor's Contingency Fund, the Governor shall report in writing to the Legislative Research Commission the following:

a. date of allotment;
b. amount of allotment;
c. agency, person or corporation receiving the allotment; and
d. purpose of allotment.

(2) Within sixty (60) days following the receipt of funds appropriated by the Act, each agency, person, or corporation shall report in writing to the Legislative Research Commission the following:

a. date of expenditure;
b. amount of expenditure;
c. purpose of expenditure;
d. result achieved by the expenditure.

Section 4. (1) Funds appropriated by this Act, not expended for the purpose of this Act as stated in Section 2, shall lapse to the General Fund.

(2) The balance of any funds appropriated by this Act remaining on June 30, 1978, shall lapse to the General Fund.

The Committee on Rules reported **HJR 34** has been posted for passage in Orders of the Day, January 31, 1978.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 320, by Representative Fitzgerald: AN ACT relating to area development districts.

HB 321, by Representatives Stone, Head and Brinkley: AN ACT relating to sick leave credit for retiring state employes.

HB 322, by Representatives McKinney, R. Smith, Dawahare, Little, Johnson, Petty, Romines, Van Horn and White: AN ACT relating to compensation of jurors.

HB 323, by Representatives Hurst, Fitzgerald, Adams, W. Allen, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Crupper, DeMarcus, Foster, Head, Johnson, Jones, LeMaster, Morris, Pearman, Petty, Riner, Schmidt, F. Smith, R. Smith, Stone, Wells and Worthington: AN ACT relating to taxation.

HB 324, by Representative Boatwright: AN ACT relating to annexation.

HB 325, by Representative Boatwright: AN ACT relating to insurance.

HB 326, by Representative Boatwright: AN ACT relating to taxation.

HB 327, by Representatives Pearman, Bruce, Morris, Burnette and Romines: AN ACT relating to individual income tax.

HB 328, by Representatives Pearman, Burnette, Bruce and Romines: AN ACT relating to individual income tax.

HB 329, by Representative F. Smith: AN ACT changing the classification of the City of Hillview in Bullitt County.

HB 330, by Representative Fitzgerald: AN ACT relating to property taxes.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 16** by Representative Adams.

Floor Amendment No. 1 to **HB 4** by Representative Wilborn.

The Clerk announced a meeting of the Committee on Appropriations and Revenue in regard to severance tax, 10:30 a.m., Monday, January 30, 1978, Room A; Committee on Appropriations and Revenue in regard to higher education, 9:30 a.m., Tuesday, January 31, 1978.

Adjournment

Representative B. Richardson moved that the House adjourn until 4 p.m., Tuesday, January 31, 1978.

The motion to adjourn was adopted.

TUESDAY, JANUARY 31, 1978

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. William C. Cessna, Asbury Sminary, Wilmore, Kentucky.

The roll was called. All present except Representatives Burnette, Cyrus and Gay.

Representative Isler moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 27, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 331, by Representative Clapp: AN ACT relating to the general assembly.

HB 332, by Representatives B. Richardson and Foster: AN ACT relating to insurance.

HB 333, by Representative Lindsay: AN ACT relating to administrative regulations.

HB 334, by Representative Williams: AN ACT relating to firearms.

HB 335, by Representatives Priddy and Benson: AN ACT relating to crimes and punishments.

HB 336, by Representatives Burch, Maynard, Bennett and Yates: AN ACT relating to licensing of denturists.

HB 337, by Representatives Romines, Yates and Cyrus: AN ACT relating to self-insured private employer group health plans.

HB 338, by Representatives LeMaster and Fitzgerald: AN ACT relating to education.

HB 339, by Representative Hancock: AN ACT relating to property valuation administrators.

HB 340, by Representative Wilborn: AN ACT relating to suspension or expulsion of students.

HB 341, by Representative Schmidt: AN ACT relating to sales and use taxes.

HB 342, by Representative Kleier: AN ACT relating to elections.

HB 343, by Representative Kleier: AN ACT relating to education of exceptional children.

HB 344, by Representative Kleier: AN ACT relating to individual income tax.

HR 36, by Representative B. Richardson: A RESOLUTION amending Rule 41 of the Rules of the House of Representatives.

Senate Message

Announcing passage of **SB 26, SB 90, SB 98,** and **SB 115.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 68, SB 84.**

Appropriations and Revenue: **HB 317, HB 323, HB 326, HB 327, HB 328, HB 330.**

Banking and Insurance: **HB 325.**

Business Organizations and Professions: **SB 76.**

Cities: **HB 324, HB 329.**

Counties and Special Districts: **HB 320.**

Elections and Constitutional Amendments: **HB 315, HB 319.**

Health and Welfare: **HB 318.**

Judiciary-Courts: **HB 322.**

Labor and Industry: **HB 316.**

State Government: **HB 321, HR 35.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

State Government: **HB 279, HB 261.**

Judiciary-Courts: **HB 220, HB 280.**

Agriculture and Natural Resources: **HB 245, HB 285, HCR 33.**

Counties and Special Districts: **HB 178, HB 260, HB 247.**

Report of Committees

The Committee on Business Organizations and Professions reported **HB 1,** with Committee Substitute attached thereto, **HB 53,** and **HB 212** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:
The legislative body of any urban-county government in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of urban-county alcoholic beverage control administrator.

SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:
(1) The urban-county administrator in each urban-county government and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The urban-county administrator, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be co-extensive with such urban-county governments. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(2) No person shall be an urban-county administrator, an investigator or an employe of the urban-county government under the supervision of the urban-county administrator, who would be disqualified to be a member of the board under KRS 241.100.

SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) Each urban-county administrator before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars ($1,000).

(2) Each urban-county administrator may require any employe under his supervision to execute a similar bond in such penal sum as he deems necessary.

(3) The cost of bonds given under this section shall be borne by the urban-county government.

SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of an urban-county administrator shall become effective until it has been approved by the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS 243.550 to 243.590.

Section 6. KRS 241.990 is amended to read as follows:

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employe in violation of subsection (3) of KRS 241.170, *or acted as an urban-county administrator in violation of Section 2 of this Act,* shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a felony and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than two (2) years, or both.

SECTION 7. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS 244.290 and 244.480, relating to the establishment of hours and times during which alcoholic beverages may be sold, and KRS 243.060 and 243.070, pertaining to local license fees, no county fiscal court nor legislative body of any city of the first, second, third or fourth class in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242, shall enact any ordinance relating to alcoholic beverages.

Section 8. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers and duties:

(1) To adopt reasonable regulations governing the procedure relative to applications for and revocations of licenses and relative to all other matters over which the board has jurisdiction, and for the supervision and control of manufacture, sale, transportation, storage, advertising and trafficking of alcoholic beverages. Regulations need not be uniform in their application, but may vary in accordance with reasonable classifications;

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end the board may make reasonable division and subdivision of the state or any political subdivision into districts. Regulations relating to the granting, refusal and revocation of licenses may be different within the several divisions of subdivisions;

(3) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and require the production of any books or papers relative to the inquiry, regardless of whether the witnesses are licensees. The power provided in this subsection may be delegated by the board to any member or employe of the department. Provisions of the Rules of Civil Procedure shall apply to subpoenas issued pursuant to this subsection, but such subpoenas shall be effective throughout the state and shall be enforceable by petition to a court of competent jurisdiction. The department may pay witnesses the per diem and mileage provided in KRS 421.010;

(4) To conduct hearings and appeals under KRS 241.150, 241.200, 243.470 and 243.520 and render decisions upon the subjects of the hearings and appeals;

(5) To suspend, revoke or cancel for cause, after a hearing, any license issued under KRS 243.020 to 243.670;

(6) If violation of KRS chapter 241, KRS 243.020 to 243.670 or KRS chapter 244 has taken place on the premises within the knowledge of the owner, or was committed or permitted in or upon premises owned by a licensee, the board shall prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed;

(7) To suspend a license for any cause for which the board is authorized to exercise its discretion as to revoking a license;

(8) To make rules and regulations and to provide forms, that may be necessary to regulate the alcoholic beverage industry and to make KRS 244.380 to 244.470 effective. [Before any such rule or regulation is adopted, the board, after notice, shall hold a public hearing at its offices in Frankfort, Kentucky, not less than five (5) days before said rule or regulation is to be adopted. Notice of such hearing and of the proposed rule or regulation, shall be given in the following manner:

(a) By publication pursuant to KRS chapter 424; and

(b) By registered letter to the principal office of any organized group or groups of licensees, or class thereof, where such organization has made a request, in writing, to be so notified.

In the event of an emergency the provisions of KRS 13.085 shall become applicable. When any rule or regulation is adopted, the same shall be filed and become effective in the manner and time prescribed in KRS chapter 13.]

Section 9. KRS 242.380 is amended to read as follows:

(1) No property rights *other than those in the alcoholic beverage commission pursuant to KRS 244.195(1)* shall exist in any alcoholic beverages obtained, possessed, held or used in violation of this chapter.

(2) The court, upon conviction of the person arrested, shall order the alcoholic beverages *delivered to the alcoholic beverage commission where upon receipt the board shall cause a sale of the contraband in accordance with the provisions of KRS 244.195* [destroyed].

[(3) No person who has been ordered by a court to destroy alcoholic beverages shall fail to destroy all of them.]

Section 10. KRS 243.020 is amended to read as follows:

(1) No person shall do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting or other traffic in alcoholic beverages unless he holds the kind of license that authorizes such act.

(2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a prima facie presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.

(3) No person, conducting a place of business patronized by the public, who does not hold a license to sell distilled spirits and wine by the drink, shall permit any person to sell, barter, loan, give away or drink distilled spirits or wine on the premises of his place of business.

(4) No distilled spirits or wine in excess of three (3) gallons *(twelve (12) liters)* shall be stored or kept except upon the licensed premises of a person who is the holder of a license provided for in KRS 243.030.

Section 11. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1) Distiller's license, per annum $500.00
(2) Rectifier's license, per annum $1,500.00
(3) Blender's license, per annum $500.00
(4) Vintner's license, per annum $500.00
(5) Small winery license, per annum $250.00
(6) Wholesaler's license, per annum $1,000.00
(7) Retail package license, per annum:
(a) In counties containing cities of the first class $600.00
(b) In counties containing cities of the second class $500.00
(c) In counties containing cities of the third class $400.00
(d) In counties containing cities of the fourth class $300.00

(e) In all other counties $200.00
(8) Retail drink license, per annum:
(a) In counties containing cities of the first class $800.00
(b) In counties containing cities of the second class $500.00
(c) In counties containing cities of the third class $400.00
(9) Transporter's license, per annum $10.00
(10) Dining car license, per annum $50.00
(11) Special nonbeverage alcohol vendor's license, per annum $2.00
(12) Special industrial alcohol license, per annum $2.00
(13) Special nonindustrial alcohol license, per annum $2.00
(14) Special agent's or solicitor's license, per annum $2.00
(15) Special storage or warehouse license, per annum $50.00
(16) Special temporary license, per month or part of month, one-sixth (1/6) of the fees enumerated in subsection (7).
(17) Special private club license, per annum $150.00
(18) Special Sunday retail drink license $300.00
(19) Nonresident, special agent or solicitor's license, per annum $2.00
(20) Transport permit, nonresident license, per annum $5.00
(21) Through transporter's license, per annum $1.00
(22) Freight forwarder's license, per annum $25.00
(23) Supplemental bar license:
(a) In counties containing cities of the first class $800.00
(b) In counties containing cities of the second class $500.00
(c) In counties containing cities of the third class $400.00
(24) [(19)] Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 12. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:
(1) Brewer's license, per annum $1,000.00
(2) Distributor's license, per annum $100.00
(3) Retailer's license, per annum:
(a) New applicants $150.00
(b) Renewals $75.00
(4) Dining car license, per annum $75.00
(5) Transporter's license, per annum $5.00
(6) Special temporary license, per month or part of month $12.50
(7) Special off-premises storage license, per annum $5.00
(8) Distributor's storage, per annum $5.00

(9) Beer transporter's license, per annum $1.00

(10) [(7)] Such other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection *(10)* [(7)] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

Section 13. KRS 243.100 is amended to read as follows:

No person shall become a licensee under KRS 243.020 to 243.670 who:

(1) Has been convicted of any *felony or* misdemeanor directly or indirectly attributable to the use of alcoholic beverages, [or any felony,] within two (2) years preceding the application;

(2) Is under the age of twenty-one (21) years;

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state or to persons licensed on March 7, 1938;

(4) Is a partnership or corporation, unless each member of the partnership or each of the directors, principal officers, *or* managers [and employes] of the corporation has not been convicted of any misdemeanor *or felony* directly attributable to the use of alcoholic beverages, [or a felony,] is twenty-one (21) years of age or more and is a citizen of the United States;

(5) Has had any license issued under this statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(6) Is a partnership or corporation, if any member of the partnership or any director or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction.

Section 14. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase, import *malt beverages into the state of Kentucky for brewers or if the malt beverage is a non-U.S. brand, from an importer or wholesaler registered with the Kentucky Department of Revenue;* or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employes for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 15. KRS 243.210 is amended to read as follows:

(1) A malt beverage transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the malt beverages.

(2) Notwithstanding the provisions of subsection (1) of this section, a transporter's license shall not be issued to a malt beverage retailer.

Section 16. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2)(a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located [on the same street as, and] within two hundred (200) feet of, a building used exclusively as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken [on the street on which the licensed premises are located,] in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1938, ch. 2, or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied exclusively as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

Section 17. KRS 243.250 is amended to read as follows:

A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. Such a licensee shall purchase distilled spirits and wine only from licensed wholesalers and unless he also holds a retail package license he shall not buy or possess distilled spirits in containers of a capacity smaller than *seven hundred fifty (750) milliliters* [twenty (20) ounces], but wine may be bought in containers not smaller than *one hundred eighty-seven (187) milliliters* [six (6) ounces] if the wine does not exceed fourteen per cent (14%) alcohol by volume and the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, and mixed drinks may be bought in containers of a capacity not smaller than *three hundred fifty-five (355) milliliters* [twelve (12) ounces], if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the sale of distilled spirits or wine by the package.

Section 18. KRS 243.300 is amended to read as follows:

(1) A distilled spirits and wine dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to sell distilled spirits and wine by the package and by the drink only on a particular dining car designated in the license. In sales by the drink the licensee has the same privileges and is subject to the same restrictions as a retail drink licensee.

(2) A malt beverage dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to exercise only on a particular dining car designated in the license, the privileges of a malt beverage retailer, subject to the same restrictions as a malt beverage retailer.

(3) Notwithstanding KRS chapter 242, a railroad system license issued under KRS 243.050 shall authorize the sale of alcoholic beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state; Provided sales are made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than *two hundred (200) milliliters of distilled spirits and one hundred eighty-seven (187) milliliters of wine* [one-half (1/2) pint] and may purchase alcoholic beverages from nonresidents.

Section 19. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, *any licensee or any of his clerks, servants, agents or employes shall have been convicted of two (2) violations* [there shall have been two (2) or more convictions of any licensee or of any of his clerks, servants, agents or employes for any violations] of the terms and provisions of chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any

of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any rules or regulations of the department of revenue made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(8) Conviction of the licensee, his agents, servants, or employes for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

Section 20. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of *any* [a] felony, [or of any] misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years.

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in KRS 244.087.

(c) Is not a citizen of the United States [or has not had an actual bona fide residence in this Commonwealth for at least one (1) year next before the date of his employment, provided the above residence requirement shall not apply to persons employed by distillers, brewers, operators of dining cars or transporters engaged in interstate commerce].

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause, or has been convicted of a violation of any of the provisions of chapter 241, 243 or 244 or of any other such act or ordinance.

(2) Violation of this section shall subject both employer and employe to penalties provided in this chapter, and shall be cause for revocation of license.

Section 21. KRS 244.120 is amended to read as follows:

(1) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly [or allow criminals and people of ill repute to congregate on the premises].

(2) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

Section 22. KRS 244.260 is amended to read as follows:

(1) No wholesaler shall purchase, import or keep upon the licensed premises or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] each of distilled spirits or *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine, and not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, as received from the distiller, rectifier, vintner or wholesaler, as the case may be. Such containers shall at all times have affixed to them such labels as may be required by the regulations of the board, together with all necessary federal revenue and state excise tax stamps.

(2) No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size, except that wine may be sold in barrels or kegs. "Case" as used in this section means a carton of containers aggregating not less than two and four-tenths (2$TH4/10) nor more than three (3) wine gallons.

Section 23. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsection (2) of this section [, and that no distilled spirits or wine may be sold on any election day while the polls are still open;] and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsection (2) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) Notwithstanding the provisions of subsection (1) of this section, the hours so fixed by the legislative body of a city of the first, second or third class, and by fiscal courts, shall not prohibit the sale, gift or delivery of any distilled spirits or wine between 6 a.m. and midnight during weekdays.

Section 24. KRS 244.300 is amended to read as follows:

No retailer of distilled spirits and wine shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit, except that a bona fide private club or hotel holding a license may sell on reasonable credit to its members or registered guests*; provided, however, sales by retail drink or retail package licenses may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue his own credit cards or extend a personal credit to patrons.*

Section 25. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, and containing not less than *seven hundred fifty (750) milliliters* [twenty (20) ounces] each of distilled spirits, and not less than *one hundred eighty-seven (187) milliliters* [six (6) ounces] each of wine not exceeding fourteen per cent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than *three hundred fifty-five (355) milliliters* [twelve (12) ounces]. If the licensee also holds a retail package license, the containers may contain as little as *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits and *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue and state excise tax stamps.

Section 26. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package, other than a railroad system licensee, shall purchase, keep upon the licensed premises or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits or *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine and not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue and state excise tax stamps.

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

Section 27. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (2), no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of 7 p.m. and 6 a.m. on any week day except Saturday, when the hours of deliveries shall be between 6 a.m. and midnight. No retailer shall sell, give away or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on an election day.

(2) The legislative body of a city of the first, second or third class in which traffic in malt beverages is permitted by KRS chapter 242, shall have the exclusive power, subject to subsection (3), by ordinance, to establish the times in which malt beverages may be sold within its jurisdictional boundaries. The fiscal court of each county in which a city of the first, second or third class is located shall have the exclusive power, subject to subsection (3), to establish the times in which malt beverages may be sold in that portion of the county which lies without the corporate limits of such a city, except any portion in which malt beverages are prohibited by KRS chapter 242 from being sold.

(3) Notwithstanding subsections (1) and (2):

(a) The hours so fixed by the legislative body of a city of the first, second or third class, and by fiscal courts, shall not prohibit the sale, gift or delivery of any malt beverages between 6 a.m. and midnight during week days. [; and]

[(b) No malt beverages shall be sold on any election day while the polls are still open.]

Section 28. KRS 243.105, 243.106, 243.107 and 244.130 are repealed.

The Committee Substitute to **HB 1** is as follows:

HB 1, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The legislative body of any urban-county government in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of urban-county alcoholic beverage control administrator.

SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) The urban-county administrator in each urban-county government and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The urban-county administrator, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be co-extensive with such urban-county governments. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(2) No person shall be an urban-county administrator, an investigator or an employe of the urban-county government under the supervision of the urban-county administrator, who would be disqualified to be a member of the board under KRS 241.100.

SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) Each urban-county administrator before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars ($1,000).

(2) Each urban-county administrator may require any employe under his supervision to execute a similar bond in such penal sum as he deems necessary.

(3) The cost of bonds given under this section shall be borne by the urban-county government.

SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of an urban-county administrator shall become effective until it has been approved by the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS 243.550 to 243.590.

Section 6. KRS 241.990 is amended to read as follows:

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employe in violation of subsection (3) of KRS 241.170, *or acted as an urban-county administrator in violation of Section 2 of this Act,* shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a felony and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than two (2) years, or both.

SECTION 7. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS 244.290 and 244.480, relating to the establishment of hours and times during which alcoholic beverages may be sold, and KRS 243.060 and 243.070, pertaining to local license fees, no county fiscal court nor legislative body of any city of the first, second, third or fourth class in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242, shall enact any ordinance relating to alcoholic beverages. Any such ordinance heretofore enacted by any fiscal court or city legislative body and which has been approved by the board shall continue in effect until changed by such body and the board.

Section 8. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers and duties:

(1) To adopt reasonable regulations governing the procedure relative to applications for and revocations of licenses and relative to all other matters over which the board has jurisdiction, and for the supervision and control of manufacture, sale, transportation, storage, advertising and trafficking of alcoholic beverages. Regulations need not be uniform in their application, but may vary in accordance with reasonable classifications;

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end the board may make reasonable division and subdivision of the state or any political subdivision into districts. Regulations relating to the granting, refusal and revocation of licenses may be different within the several divisions of subdivisions;

(3) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and require the production of any books or papers relative to the inquiry, regardless of whether the witnesses are licensees. The power provided in this subsection may be delegated by the board to any member or employe of the department. Provisions of the Rules of Civil Procedure shall apply to subpoenas issued pursuant to this subsection, but such subpoenas shall be effective throughout the state and shall be enforceable by petition to a court of competent jurisdiction. The department may pay witnesses the per diem and mileage provided in KRS 421.010;

(4) To conduct hearings and appeals under KRS 241.150, 241.200, 243.470 and 243.520 and render decisions upon the subjects of the hearings and appeals;

(5) To suspend, revoke or cancel for cause, after a hearing, any license issued under KRS 243.020 to 243.670;

(6) If violation of KRS chapter 241, KRS 243.020 to 243.670 or KRS chapter 244 has taken place on the premises within the knowledge of the owner, or was committed or permitted in or upon premises owned by a licensee, the board shall prohibit the issuance of a license for the premises until the expiration of two (2) years

from the time the offense was committed;

(7) To suspend a license for any cause for which the board is authorized to exercise its discretion as to revoking a license;

(8) To make rules and regulations and to provide forms, that may be necessary to regulate the alcoholic beverage industry and to make KRS 244.380 to 244.470 effective. [Before any such rule or regulation is adopted, the board, after notice, shall hold a public hearing at its offices in Frankfort, Kentucky, not less than five (5) days before said rule or regulation is to be adopted. Notice of such hearing and of the proposed rule or regulation, shall be given in the following manner:

(a) By publication pursuant to KRS chapter 424; and

(b) By registered letter to the principal office of any organized group or groups of licensees, or class thereof, where such organization has made a request, in writing, to be so notified.

In the event of an emergency the provisions of KRS 13.085 shall become applicable. When any rule or regulation is adopted, the same shall be filed and become effective in the manner and time prescribed in KRS chapter 13.]

Section 9. KRS 242.380 is amended to read as follows:

(1) No property rights *other than those in the alcoholic beverage commission pursuant to KRS 244.195(1)* shall exist in any alcoholic beverages obtained, possessed, held or used in violation of this chapter.

(2) The court, upon conviction of the person arrested, shall order the alcoholic beverages *delivered to the alcoholic beverage commission where upon receipt the board shall cause a sale of the contraband in accordance with the provisions of KRS 244.195* [destroyed].

[(3) No person who has been ordered by a court to destroy alcoholic beverages shall fail to destroy all of them.]

Section 10. KRS 243.020 is amended to read as follows:

(1) No person shall do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting or other traffic in alcoholic beverages unless he holds the kind of license that authorizes such act.

(2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a prima facie presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.

(3) No person, conducting a place of business patronized by the public, who does not hold a license to sell distilled spirits and wine by the drink, shall permit any person to sell, barter, loan, give away or drink distilled spirits or wine on the premises of his place of business.

(4) No distilled spirits or wine in excess of three (3) gallons *(twelve (12) liters)* shall be stored or kept except upon the licensed premises of a person who is the holder of a license provided for in KRS 243.030.

Section 11. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1) Distiller's license, per annum $500.00

(2) Rectifier's license, per annum $1,500.00

(3) Blender's license, per annum $500.00

(4) Vintner's license, per annum $500.00

(5) Small winery license, per annum $250.00

(6) Wholesaler's license, per annum $1,000.00

(7) Retail package license, per annum:

(a) In counties containing cities of the first class $600.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(d) In counties containing cities of the fourth class $300.00

(e) In all other counties $200.00

(8) Retail drink license, per annum:

(a) In counties containing cities of the first class $800.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(9) Transporter's license, per annum $10.00

(10) Dining car license, per annum $50.00

(11) Special nonbeverage alcohol vendor's license, per annum $2.00

(12) Special industrial alcohol license, per annum $2.00

(13) Special nonindustrial alcohol license, per annum $2.00

(14) Special agent's or solicitor's license, per annum $2.00

(15) Special storage or warehouse license, per annum $50.00

(16) Special temporary license, per month or part of month, one-sixth (1/6) of the fees enumerated in subsection (7).

(17) Special private club license, per annum $150.00

(18) Special Sunday retail drink license $300.00

(19) Nonresident, special agent or solicitor's license, per annum $2.00

(20) Transport permit, nonresident license, per annum $5.00

(21) Through transporter's license, per annum $1.00

(22) Freight forwarder's license, per annum $25.00

(23) Supplemental bar license:

(a) In counties containing cities of the first class $800.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(24) [(19)] Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 12. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1) Brewer's license, per annum $1,000.00

(2) Distributor's license, per annum $100.00

(3) Retailer's license, per annum:

(a) New applicants $150.00

(b) Renewals $75.00

(4) Dining car license, per annum $75.00

(5) Transporter's license, per annum $5.00

(6) Special temporary license, per month or part of month $12.50

(7) Special off-premises storage license, per annum $5.00

(8) Distributor's storage, per annum $5.00

(9) Beer transporter's license, per annum $1.00

(10) [(7)] Such other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection *(10)* [(7)] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of

KRS 244.090 as the board by regulation prescribes.

Section 13. KRS 243.100 is amended to read as follows:

No person shall become a licensee under KRS 243.020 to 243.670 who:

(1) Has been convicted of any *felony or* misdemeanor directly or indirectly attributable to the use of alcoholic beverages, [or any felony,] within two (2) years preceding the application;

(2) Is under the age of twenty-one (21) years;

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state or to persons licensed on March 7, 1938;

(4) Is a partnership or corporation, unless each member of the partnership or each of the directors, principal officers, *or* managers [and employes] of the corporation has not been convicted of any misdemeanor *or felony* directly attributable to the use of alcoholic beverages, [or a felony,] is twenty-one (21) years of age or more and is a citizen of the United States;

(5) Has had any license issued under this statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(6) Is a partnership or corporation, if any member of the partnership or any director or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction.

Section 14. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase *malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located,* import *a non-U.S. brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue;* or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employes for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 15. KRS 243.210 is amended to read as follows:

(1) A malt beverage transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee under KRS 243.020 to 243.670 if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the malt beverages.

(2) Notwithstanding the provisions of subsection (1) of this section, a transporter's license shall not be issued to a malt beverage retailer.

Section 16. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2)(a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located [on the same street as, and] within two hundred (200) feet of, a building used exclusively as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken [on the street on which the licensed premises are located,] in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1938, ch. 2, or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied exclusively as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

Section 17. KRS 243.250 is amended to read as follows:

A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. Such a licensee shall purchase distilled spirits and wine only from licensed wholesalers and unless he also holds a retail package license he shall not buy or possess distilled spirits in containers of a capacity smaller than *seven hundred fifty (750) milliliters* [twenty (20) ounces], but wine may be bought in containers not smaller than *one hundred eighty-seven (187) milliliters* [six (6) ounces] if the wine does not exceed fourteen per cent (14%) alcohol by volume and the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, and mixed drinks may be bought in containers of a capacity not smaller than *three hundred fifty-five (355) milliliters* [twelve (12) ounces], if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the sale of distilled spirits or wine by the package.

Section 18. KRS 243.300 is amended to read as follows:

(1) A distilled spirits and wine dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to sell distilled spirits and wine by the package and by the drink only on a particular dining car designated in the license. In sales by the drink the licensee has the same privileges and is subject to the same restrictions as a retail drink licensee.

(2) A malt beverage dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to exercise only on a particular dining car designated in the license, the privileges of a malt beverage retailer, subject to the same restrictions as a malt beverage retailer.

(3) Notwithstanding KRS chapter 242, a railroad system license issued under KRS 243.050 shall authorize the sale of alcoholic beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state; Provided sales are made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than *two hundred (200) milliliters of distilled spirits and one hundred eighty-seven (187) milliliters of wine* [one-half (1/2) pint] and may purchase alcoholic beverages from nonresidents.

Section 19. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, *any licensee or any of his clerks, servants, agents or employes shall have been convicted of two (2) violations* [there shall have been two (2) or more convictions of any licensee or of any of his clerks, servants, agents or employes for any violations] of the terms and provisions of chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to

taxation, or for a violation of any rules or regulations of the department of revenue made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(8) Conviction of the licensee, his agents, servants, or employes for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

Section 20. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of *any* [a] felony, [or of any] misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years.

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in KRS 244.087.

(c) Is not a citizen of the United States [or has not had an actual bona fide residence in this Commonwealth for at least one (1) year next before the date of his employment, provided the above residence requirement shall not apply to persons employed by distillers, brewers, operators of dining cars or transporters engaged in interstate commerce].

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause, or has been convicted of a violation of any of the provisions of chapter 241, 243 or 244 or of any other such act or ordinance.

(2) Violation of this section shall subject both employer and employe to penalties provided in this chapter, and shall be cause for revocation of license.

Section 21. KRS 244.120 is amended to read as follows:

(1) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly [or allow criminals and people of ill repute to congregate on the premises].

(2) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

Section 22. KRS 244.260 is amended to read as follows:

(1) No wholesaler shall purchase, import or keep upon the licensed premises or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] each of distilled spirits or *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine, and not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, as received from the distiller, rectifier, vintner or wholesaler, as the case may be. Such containers shall at all times have affixed to them such labels as may be required by the regulations of the board, together with all necessary federal revenue and state excise tax stamps.

(2) No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size, except that wine may be sold in barrels or kegs. "Case" as used in this section means a carton of containers aggregating not less than *nine (9) liters* [two and four-tenths (2—4/10)] nor more than *twelve (12) liters of* [three (3)] wine [gallons].

Section 23. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second or third class in which traffic in distilled spirits and wine is permitted under KRS chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second or third class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second or third class during the twenty-four hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsection (2) of this section [, and that no distilled spirits or wine may be sold on any election day while the polls are still open;] and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsection (2) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) Notwithstanding the provisions of subsection (1) of this section, the hours so fixed by the legislative body of a city of the first, second or third class, and by fiscal courts, shall not prohibit the sale, gift or delivery of any distilled spirits or wine between 6 a.m. and midnight during weekdays.

Section 24. KRS 244.300 is amended to read as follows:

No retailer of distilled spirits and wine shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit, except that a bona fide private club or hotel holding a license may sell on reasonable credit to its members or registered guests*; provided, however, sales by retail drink or retail package licenses may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue his own credit cards or extend a personal credit to patrons.*

Section 25. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, and containing not less than *seven hundred fifty (750) milliliters* [twenty (20) ounces] each of distilled spirits, and not less than *one hundred eighty-seven (187) milliliters* [six (6) ounces] each of wine not exceeding fourteen per cent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than *three hundred fifty-five (355) milliliters* [twelve (12) ounces]. If the licensee also holds a retail package license, the containers may contain as little as *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits and *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue [and state excise] tax stamps.

Section 26. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package, other than a railroad system licensee, shall purchase, keep upon the licensed premises or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits or *one hundred eighty-seven (187) milliliters* [six (6) ounces] of wine and not exceeding *one (1) liter* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue [and state excise] tax stamps.

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

Section 27. KRS 243.105, 243.106, 243.107 and 244.130 are repealed.

HB 53, AN ACT relating to licensing of speech pathologists and audiologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 334A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the State Board of Examiners of Speech Pathology and Audiology.

(2) "Person" means any individual, organization or corporate body, except that only individuals can be licensed under this chapter.

(3) "Speech pathologist" means one who practices speech pathology. A speech pathologist may describe himself to the public by any title or description of services incorporating the words "speech pathologist," "speech pathology," "speech therapy," "speech correction," "speech correctionist," "speech therapist," "speech clinic," "speech clinician," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," or any similar titles or descriptions of services.

(4) "The practice of speech pathology" means the application of principles, methods and procedures for the measurement, testing, prediction, counseling, or instruction related to the development and disorders of speech, voice, or language for the purpose of preventing, treating, ameliorating or modifying such disorders and conditions in individuals and/or groups of individuals.

(5) "Speech pathology aide" means any person meeting the minimum requirements established by the state board of examiners of speech pathology and audiology, and who works directly under the supervision of a licensed speech pathologist. The qualifications for *a* [licensure as] speech pathology aide shall be uniform, but shall be less than those prescribed for the speech pathologist.

(6) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," or any similar titles or descriptions of service.

(7) "The practice of audiology" means the application of principles, methods and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting or participating in identification and hearing conservation programs; habilitative and rehabilitative programs including hearing aid recommendations and evaluation, auditory training, or speech reading.

(8) "Audiology aide" means any person, meeting the minimum requirements established by the state board of examiners of speech pathology and audiology, who works directly under the supervision of a licensed audiologist. The qualiications for [licensure as] an *audiology* aide shall be uniform, but shall be less than those prescribed for the audiologist.

Section 2. KRS 334A.040 is amended to read as follows:

(1) Nothing in this chapter, however, shall be construed to prevent a qualified person licensed in this state under any other law from engaging in the profession for which he is licensed.

(2) Nothing in this chapter shall be construed to prevent *licensed* [qualified] hearing aid *dealers and fitters* [dispensers] from engaging in those practices and procedures used solely for the fitting and selling of hearing aids.

(3) Nothing in this chapter shall be construed as restricting or preventing activities of a speech pathology or audiology nature or the use of the official title of the position for which they were employed on the part of the following persons:

(a) [Persons who hold a valid and current credential as a speech and hearing specialist issued by the Kentucky State Department of Education; or

(b)] Speech pathologists or audiologists employed by local, state or federal government agencies *or public school systems*; providing such persons are performing such activities solely within the confines or under the jurisdiction of the organization in which they are employed and do not offer to render speech pathology or audiology services as defined in subsections (4) and (7) of KRS 334A.020 to the public outside of the institutions or organizations in which they are employed. [However, such persons may, without obtaining a license under this chapter, consult or disseminate their research findings and scientific information to other such accredited academic institutions or governmental agencies. They also may offer lectures to the public for a fee, monetary or otherwise, without being licensed under this chapter.]

(b) [(c)] Registered and practical nurses or others trained to perform audiometric testing under the direct supervision of a licensed physician or surgeon.

(4) Nothing in this chapter shall be construed as restricting the activities and services of a graduate student or speech pathology intern in speech pathology pursuing a course of study leading to a graduate degree in speech pathology at an accredited or approved college or university or an approved clinical training facility, provided these activities and services constitute a part of his supervised course of study and that such persons are designated by such title as "speech pathology intern," "speech pathology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(5) Nothing in this chapter shall be construed as restricting the activities and services of a graduate student or audiology intern in audiology pursuing a course of study leading to a graduate degree in audiology at an accredited or approved college or university or an approved clinical training facility, provided that these activities and services constitute a part of his supervised course of study and that such persons are designated by such title as "audiology intern," "audiology trainee," or other such title clearly indicating the training status appropriate to his level of training.

(6) Nothing in this chapter shall be construed as restricting a person from another state offering his speech pathology or audiology services in this state provided such services are performed for no more than five days in any calendar year and provided that person meets the qualifications and requirements stated in the section on qualifications. However, a person from another state who is licensed or certified as a speech pathologist or audiologist by a similar board of another state, or territory of the United States, or of a foreign country or province whose standards *for licensure or certification* are equivalent to or higher than, [at the date of his certification or licensure,] the requirements of this chapter, and regulations duly adopted hereunder, or a person who meets the qualifications and requirements, and resides in a state or territory of the United States, or a foreign country or province which does not grant certification or license to speech pathologists *or audiologists*, may also offer speech pathology *or audiology* services in this state for a total of not more than thirty (30) days in any calendar year without being licensed under this law.

(7) Nothing in this chapter shall be construed as restricting the activities and services of a speech pathologist or audiologist who has met the requirements of subsections (1) through (5) of KRS 334A.050 and who is in the process of satisfying subsections (6) and (7) of KRS 334A.050 provided that such person (a) makes application to the board at the outset of the professional experience year, and (b) provides a plan to the board as described by the board's regulation.

Section 3. KRS 334A.050 is amended to read as follows:

To be eligible for licensure by the board as a speech pathologist or audiologist, the applicant must:

(1) Be of good moral character; and

(2) Be a citizen of the United States or have declared his intention to become a citizen. A statement by the applicant under oath that he is a citizen or that he intends to apply for citizenship when he becomes eligible to make application, shall be sufficient proof of compliance with this subdivision; and

(3) Possess *either* [at least] a master's *or doctoral* degree in the area of speech pathology or audiology; and

(4) Submit transcripts from an educational institution approved by the board evidencing the successful completion of at least 60 semester hours of courses related to the normal development, function and use of speech, hearing and language; and courses that provide information about, and training in, the management of speech, hearing, and language disorders including the legal, professional, and ethical practices of speech pathology and audiology; and

(5) Submit evidence of the completion of a minimum of *300* [275] clock hours of supervised, direct, clinical experience with individuals presenting a variety of disorders of communication, the experience being obtained within the training institution or in one of its cooperating programs; and

(6) Present written evidence from a licensed and/or certified speech pathologist or audiologist supervisor of nine months of full-time professional employment pertinent to the license being sought. This experience must follow the completion of the requirements listed in subsections (3), (4) and (5). Full-time is

defined as at least nine months in a calendar year and a minimum of thirty hours per week or part-time equivalent over an 18 month period; and

(7) Pass an examination approved by the board. The board shall determine the subject and scope of the examinations. Written examinations may be supplemented by such oral examinations as the board shall determine. An applicant who fails his examination may be reexamined [at a subsequent examination] upon payment of another licensing fee.

Section 4. KRS 334A.060 is amended to read as follows:

(1) [The board may waive the examination and educational requirements for those applicants who, on June 16, 1972, are actively engaged in the practice of speech pathology or audiology upon proof of bona fide practice presented to the board in the manner prescribed by the board's regulations, providing that they file an application for examination on or before two years of June 16, 1972.

(2)] The board may waive the examination and grant a license to applicants who present proof of current licensure in *another state and who meet the minimum requirements for licensure as written in KRS 334A.050, subsections (1) through (6)* [a state which has standards equivalent to those of this state].

(2) [(3)] The board may waive the examination and grant a license to those who hold the certificate of clinical competence of the American Speech and Hearing Association in the area for which they are applying for licensure.

Section 5. KRS 334A.130 is amended to read as follows:

(1) Each person desiring to obtain a license from the board shall make application to the board. The application shall be made upon a form and shall be made in such a manner as the board prescribes in regulations duly adopted under this chapter.

(2) The application shall be accompanied by the application fee [prescribed by KRS 334A.160]. This fee shall not be refunded by the board.

Section 6. KRS 334A.140 is amended to read as follows:

[(1) Each applicant shall be examined by the committee, and shall pay to the board, at least 30 days prior to the date of the examination, the examination fee prescribed in KRS 334A.160, which fee will not be refunded by the board.]

(1) [(2)] The board may examine by written or oral examination or by both. The examination shall be given at least twice a year at the time and place and under such supervision as the board may determine. Standards for acceptable performance shall be determined by the board.

(2) [(3)] The board may waive the written examination if the applicant has successfully passed *a national examination in speech pathology or audiology acceptable to the board* [the American Speech and Hearing Association examination for certification].

(3) [(4)] The board may examine or direct the applicant to be examined for knowledge in whatever theoretical or applied fields in speech pathology or audiology as it deems appropriate. It may examine the candidate with regard to his professional skills and his judgment in the utilization of speech pathology or audiology techniques and methods.

(4) [(5)] The board shall grade the written examination or direct it to be graded and keep the written examination papers for at least *five (5) years* [one year].

(5) [(6)] The board shall keep an accurate transcript of the oral examination and keep such transcripts as part of its records for at least *five (5) years* [one year] following the date of examination.

(6) [(7)] A speech pathologist or audiologist who holds American Speech and Hearing Association certification or is licensed in another state and who has made application to the board for a license in this state may perform activities and services of a speech pathology or audiological nature without a valid license pending disposition of application.

(7) [(8)] The board at its discretion may waive those parts of the examination, including either the whole of the written or oral examinations, when in the judgment of the board the applicant has already demonstrated competence in areas covered by those parts of the examination.

Section 7. KRS 334A.150 is amended to read as follows:

The board shall issue a license to all applicants who meet the requirements of this chapter and who pay to the board the initial license fee provided *by the board's regulations consistent with* [in] KRS 334A.160.

Section 8. KRS 334A.160 is amended to read as follows:

(1) The amount of fees prescribed in connection with a license as a speech pathologist or audiologist *shall be set by the board but not to exceed the following amounts* [is as follows]:

(a) The examination fee *$50* [for a license is $25];

(b) The initial license fee *$100* [will be $50];
(c) The renewal fee *$50* [shall be $25];
(d) The delinquency fee *$20* [shall be $10];
(e) The application fee *$50* [shall be $25]; and
(f) The inactive license fee *$10* [shall be $5].

(2) The fees in this article shall be fixed by the board and shall be set forth with the regulations which are duly adopted under this chapter.

(3) Every person to whom a license is issued after December 31, 1972, shall, as a condition precedent to its issuance, and in addition to any application, examination or other fee, pay the prescribed initial license fee. The board may, by regulation, provide for the waiver where the license is issued less than *ninety (90)* [forty-five (45)] days before the date on which it will expire.

Section 9. KRS 334A.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding $1000 or by both.

(2) Whenever any person other than a licensed speech pathologist *or audiologist* has engaged in any act or practice which constitutes an offense against this chapter, the Franklin Circuit Court on application of the board, may issue an injunction or other appropriate order restraining such conduct.

HB 212, AN ACT relating to occupational and professional licensing.

WHEREAS, no occupation, profession or other endeavor shall be subject to the state's regulatory power unless the exercise of such power is necessary to protect the public health, safety or welfare; and

WHEREAS, regulation shall not be conducted in a manner which will adversely affect the competitive market in an unreasonable way; and

WHEREAS, there is a need for the systematic review by the General Assembly of the need for, and the public benefits derived from, regulatory activities.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW CHAPTER OF KRS 335A IS CREATED TO READ AS FOLLOWS:
(1) The following statutes are repealed as of July 1, 1980:
(a) KRS Chapter 316 relating to Embalmers and Funeral Directors;
(b) KRS Chapter 317 relating to Barbers;
(c) KRS Chapter 317A relating to Hairdressers and Cosmetologists;
(d) KRS Chapter 318 relating to Plumbers and Plumbing;
(e) KRS Chapter 324 relating to Real Estate Brokers and Salesmen;
(f) KRS Chapter 328 relating to Watchmakers;
(g) KRS Chapter 329 relating to Detection of Deception Examiners; and
(h) KRS Chapter 330 relating to Auctioneers.
(2) The following statutes are repealed effective July 1, 1982:
(a) KRS Chapter 319 relating to Psychologists;
(b) KRS Chapter 322 relating to Professional Engineers and Land Surveyors;
(c) KRS Chapter 323 relating to Architects;
(d) KRS Chapter 323A relating to Landscape Architects;
(e) KRS Chapter 325 relating to Public Accountants;
(f) KRS Chapter 327 relating to Physical Therapists;
(g) KRS Chapter 334 relating to Hearing Aid Dealers and Fitters;
(h) KRS Chapter 334A relating to Speech Pathologists and Audiologists; and
(i) KRS Chapter 335 relating to Social Workers.
(3) The following statutes are repealed effective July 1, 1984:
(a) KRS Chapter 311 relating to Physicians, Osteopaths and Podiatrists;
(b) KRS Chapter 312 relating to Chiropractors;
(c) KRS Chapter 313 relating to Dentists and Dental Hygienists;
(d) KRS Chapter 314 relating to Registered Nurses and Practical Nurses;
(e) KRS Chapter 315 relating to Pharmacists;
(f) KRS Chapter 320 relating to Optometrists;
(g) KRS Chapter 321 relating to Veterinarians; and

(h) KRS Chapter 325 relating to Ophthalmic Dispensers.

(4) All agencies created under authority of KRS Chapters enumerated in this section will be terminated effective the same date the respective statutes are repealed. "Agency" is defined as any board, commission or any other regulatory instrumentality of state government created and functioning to license and regulate.

(5) The provisions of this Act shall not terminate any claim or right of a citizen against any such agency or any claim or right of an agency terminated pursuant to this Act which is subject to litigation. Said claims and rights shall be assumed by the Executive Department for Finance and Administration.

(6) All outstanding debts of the terminated agencies shall be assumed by the Executive Department for Finance and Administration and shall be paid from unexpended funds appropriated to the terminated agency. Should this amount not be sufficient to cover all debts, the difference shall be paid from the general fund. Should there be surplus funds after all obligations have been satisfied, the surplus shall revert to the general fund.

(7) Nothing in this Act shall be construed to prohibit the General Assembly from terminating an agency covered by these provisions at a date earlier than that provided herein, nor to prohibit the General Assembly from considering any other legislation relative to such agency.

SECTION 2. A NEW SECTION OF KRS CHAPTER 335A IS CREATED TO READ AS FOLLOWS:

(1) Two (2) years prior to each scheduled statutory repeal and agency termination, the Legislative Research Commission or a duly designated committee thereof, shall conduct a comprehensive review and evaluation of the need for and the performance of the scheduled agencies. During the review and evaluation process, a public hearing shall be held at which the public shall have the opportunity to testify on the need for and the performance of the agency.

(2) The agency shall be evaluated for need and performance. In evaluating need, it must be demonstrated that the benefits to the public clearly outweigh the burden which regulation imposes and the burden of proof is on the agency. The following criteria shall be considered in evaluating need:

(a) Would the absence of regulation significantly harm or endanger the public health, safety or welfare?

(b) Is there a reasonable relationship between the exercise of the state's police power and the protection of the public health, safety or welfare?

(c) Is there another less restrictive method of regulation available which could adequately protect the public?

(d) Does the regulation have the effect of directly or indirectly increasing the costs of any goods or services involved, and if so, to what degree?

(e) Is the increase in cost more harmful to the public than the harm which could result from the absence of regulation?

(f) Are all facets of the regulatory process designed solely for the purpose of, and have as their primary effect, the protection of the public?

(3) If it is determined that a regulatory function is not needed, the evaluation report shall recommend that the respective agency be allowed to terminate. If, however, it is determined that a regulatory function is needed, the function will be additionally evaluated on its effectiveness and efficiency in executing its regulatory responsibilities. This evaluation shall include but not be limited to the following criteria:

(a) Has the agency permitted qualified applicants to serve the public?

(b) Has the agency supported affirmative action requirements by licensing minorities and women?

(c) Has the agency operated for the benefit of its licensees as opposed to the public interest?

(d) Has the agency sought criticism aimed at improvements from the public and from its licensees?

(e) Has the agency recommended statutory changes that would benefit the public, as opposed to those it regulates?

(f) Has the agency encouraged participation by the public in rule- and decision-making, as opposed to participation by the person it regulates?

(g) Have complaints from the public been handled efficiently?

(4) All agencies being reviewed and evaluated shall cooperate with the Legislative Research Commission and shall supply any and all information required and requested by the Legislative Research Commission to conduct its review.

(5) No agency under review shall expend public funds for the purpose of influencing its evaluation, except for funds expended in the process of generating information and other documentation required and requested by the Legislative Research Commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 335A IS CREATED TO READ AS FOLLOWS:

(1) The Legislative Research Commission shall have completed its evaluation report on an agency one (1) year prior to its scheduled termination date. The report shall include the findings of the evaluation and recommendations as to the termination, continuation or continuation with modification of the agency. If continuation or continuation with modification is recommended, appropriate legislation shall be included with

the report. This legislation shall be prefiled for the next regular session of the General Assembly.

(2) The life of any agency continued or continued with modification shall not exceed six (6) years. Any newly created agency as defined by this Act shall have a life not to exceed six (6) years and shall be reviewed and evaluated as to need and performance as provided in Sections 2 and 3 of this Act.

(3) A copy of each evaluation report shall be submitted to the Governor and to the Executive Department for Finance and Administration for consideration in preparing the executive budget.

The Committee on Judiciary-Courts reported **HB 49** and **SB 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 49, AN ACT relating to circuit clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.725 is amended to read as follows:

(1) The commonwealth's attorney shall attend each circuit court held in his judicial circuit. He shall have the duty to prosecute all violations of the criminal and penal laws which are to be tried in the circuit court in his judicial circuit. In addition, he shall have the primary responsibility within his judicial circuit to present evidence to the grand jury concerning such violations.

(2) The county attorney shall attend the district court in his county and prosecute all violations of criminal and penal laws within the jurisdiction of said district court.

(3) The commonwealth's attorney and county attorneys in a judicial circuit shall cooperate in the enforcement of criminal and penal laws of the Commonwealth. When necessary, the commonwealth's attorney and county attorney shall assist each other in prosecution within their respective courts.

(4) In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may *issue criminal warrants prepared by* [, with the approval of]the commonwealth's attorney or county attorney [, issue arrest warrants].

SB 51, AN ACT relating to settlements of estates

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 395.600 is amended to read as follows:

The district court shall make settlements with personal representatives, trustees, assignees, committees, curators and guardians in his county [, or appoint a special commissioner to make such settlements].

Section 2. KRS 395.615 is amended to read as follows:

The district court [or special commissioner] may hear evidence for or against any item, and may question fiduciaries, under oath, about any matter connected with the settlement. Witnesses may be summoned at the instance of either party to give evidence when the settlement is made, or upon the trial of exceptions thereto, and their attendance may be coerced as in other cases. All oral evidence shall be electronically recorded and no evidence shall be presumed to have been heard unless it has been so recorded. No credit shall be allowed a fiduciary for disbursements, fees or services without legal evidence to justify it.

Section 3. KRS 395.620 is amended to read as follows:

The district judge [or his commissioner] shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the *circuit* clerk [of the district court]. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

Section 4. KRS 395.645 is amended to read as follows:

When the court directs, settlements of the accounts of fiduciaries made before and reported by any *trial* commissioner, and all reports of estates or funds received or disbursed, under order of the court, by its *trial* commissioner [or receiver], after they have been confirmed by the court, shall be recorded by the clerk of the court in a book to be provided for that purpose. The vouchers accompanying the settlements or reports shall not be recorded.

Section 5. KRS 395.650 is amended to read as follows:
Where fiduciaries appointed in the district court are required to make settlement in the circuit court, the circuit clerk shall make and file [in the office of the clerk of the district court] a certificate of each approved settlement, showing the number and style of the case, the number of the file box in which the suit may be found in the circuit clerk's office, before whom made, when approved by the court and whether it is a final or partial settlement. [The clerk of the district court shall record the certificate with the record of settlement in his office.]

SECTION 6. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:
Any duty required of the district judge under KRS 395.600 through KRS 395.655 may, if authorized by rules of the Supreme Court, be performed by the trial commissioner appointed pursuant to KRS 24A.100.

Section 7. KRS 395.660 is repealed.

Motions, Petitions and Communications

Representative Richards moved that **HB 168** be taken from the Committee on Education and reassigned to the Committee on Appropriations and Revenue. Agreed.

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Burch, **HB 318;** Representative Craddock, **HB 4;** Representative Donnermeyer, **HB 168;** Representative Guy, **HB 299, HB 323;** Representative Holbrook, **HB 120;** Representative Little, **HB 118;** Representative Mann, **HB 168;** Representative O'Brien, **HB 168;** Representative Schmidt, **HB 168;** Representative Siemens, **HB 248;** Representative Wilborn, **HB 166.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 68, HB 70,** and **HCR 26** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 57 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Carpenter moved that **HB 57** be passed.

On the roll call the vote was yeas 92-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 57 was passed and the title agreed to.

Representative Carpenter moved that the vote by which **HB 57** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

HB 4 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Richardson moved that adoption of the following Floor Amendment No. 1 to **HB 4:**

Amend printed copy of **HB 4,** page 1, line 4, after "Banks and before "Credit" delete "and" and insert in lieu thereof "or".

Agreed.

Representative P. Richardson moved the passage of **HB 4** as amended.

On the roll call the vote was yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Clarke, Patrick.

HB 4 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 4** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Patrick moved that his vote be changed from "nay" to "yea" on the passage of **HB 4** as amended. Rejected.

Representative Patrick moved that a call of the roll be taken to approve his vote change from "nay" to "yea" on the passage of **HB 4** as amended.

On the roll call the vote was yeas 75-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Dawahare, DeFalaise, DeMarcus, Dietz, Dunn, Fitzgerald, Gray, Guenthner, Guy, Head, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 20-J. Allen, Blythe, Burch, Clarke, Davenport, Donnermeyer, Foster, Haering, Hancock, Holloway, Jones, Maynard, McBee, Morris, Plummer, Richards, R. Smith, Tobin, Van Horn, White.

The motion that the vote of Representative Patrick be changed from "nay" to "yea" on the passage of **HB 4** as amended was adopted.

Representative B. Richardson moved that the vote by which the motion that the vote of Representative Patrick be changed from "nay" to "yea" on the passage of **HB 4** as amended was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

HB 101, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved the adoption of the Committee Substitute to **HB 101.** Agreed.

Representative Clapp moved that **HB 101,** by way of Committee Substitute, be passed.

Representative Lindsay moved that **HB 101,** by way of Committee Substitute, be laid on the Clerk's desk.

On the roll call the vote was yeas 9-Beshear, Dawahare, Deskins, Foster, Hurst, Lindsay, List, Richards, Wilborn. Nays 67-J. Allen, W. Allen, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Layman, LeMaster, Mann, Marcum, May, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, B. Richardson, P. Richardson, Riner, Romines, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Williams, Wright, Yates.

The motion that **HB 101,** by way of Committee Substitute, be laid on the Clerk's desk was rejected.

Representative Clapp moved that **HB 101,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 48-J. Allen, Bennett, Blandford, Blythe, Brinkley, Brown, Burch, Clapp, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guy, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, LeMaster, List, Mann, Marcum, McBee, Nett, Noe, O'Brien, Petty, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Worthington, Wright, Yates. Nays 36-Adams, W. Allen, Bendl, Benson, Beshear, Boatwright, Carpenter, Clarke, Craddock, Crupper, Dawahare, DeMarcus, Foster, Guenthner, Haering, Hurst, Jones, Kidd, Kleier, Layman, Lindsay, May, Maynard, McKinney, McNutt, Overstreet, Patrick, Pearman, Plummer, Richards, P. Richardson, Robinson, R. Smith, Tobin,Weinberg, Wilborn.

HB 101, by way of Committee Substitute, was passed.

Representative Clapp moved the adoption of the Committee Title Amendment to **HB 101.**

The title to **HB 101** was agreed to.

Representative Clapp moved that the vote by which **HB 101,** by way of Committee Substitute as amended, was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 16** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 25, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 25.**

Representative Patrick moved that **HB 25** be laid on the Clerk's desk.

On the roll call the vote was yeas 30-W. Allen, Boatwright, Crupper, Dawahare, DeFalaise, Deskins, Guenthner, Haering, Hines, Holbrook, Holloway, Johnson, Layman, Lindsay, Little, Marcum, May, Overstreet, Patrick, Pearman, Plummer, Riner, Robinson, Schmidt, Stone, Trevey, Van Horn, Weinberg, Wilborn, Williams. Nays 49-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Burch, Carpenter, Clarke, Craddock, Davenport, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Hancock, Imes, Isler, Kenton, Kleier, LeMaster, List, Mann, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Petty, Priddy, Richards, B. Richardson, P. Richardson, Sale, Siemens, F. Smith, Stewart, Thomas, Tobin, Turner, Yates.

The motion that **HB 25** be laid on the Clerk's desk was rejected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 25.** Agreed.

Representative Thomas moved that **HB 25,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 62-Adams, W. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boswell, Burch, Carpenter, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, Maynard, McBee, McKinney, Morris, Nett, Noe, Patrick, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, White, Williams, Wright, Yates. Nays 32-J. Allen, Benson, Beshear, Boatwright, Brinkley, Bruce, Clarke, Craddock, Crupper, DeFalaise, Dunn, Hines, Holbrook, Holloway, Kidd, Lindsay, Little, Marcum, May, McNutt, O'Brien, Overstreet, Pearman, Plummer, Rattliff, Schmidt, R. Smith, Tobin, Van Horn, Weinberg, Wilborn, Worthington.

HB 25, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 25,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **HB 103** and **HB 125.**

Orders of the Day (continued)

HB 190 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 190** be passed.

On the roll call the vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Fitzgerald.

HB 190 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 190** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HJR 34, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment to **HJR 34.** Agreed.

Representative B. Richardson moved that **HJR 34** as amended be passed.

On the roll call the vote was yeas -Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HJR 34 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HJR 34** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HR 26** by Representative LeMaster.

Floor Amendment No. 1 to **HR 27** by Representative Lindsay.

Floor Amendment No. 2 to **HB 16** by Representative B. Richardson.

Floor Amendment No. 1 to Committee Substitute for **HB 25** by Representative Fitzgerald.

Floor Amendment No. 2 to **HB 60** by Representative Crupper.

Floor Amendment No. 1 to **HB 68** by Representative LeMaster.

Floor Amendment No. 1 to **HB 70** by Representative Adams.

Floor Amendment No. 1 to the Committee Substitute to **HB 101** by Representative Overstreet.

The Clerk announced meeting of the Committee on Appropriations and Revenue, 9:30 a.m., Thursday, February 2, 1978; 12:30 a.m., Friday, February 3, 1978.

Adjournment

Representative B. Richardson moved that the House adjourn until 2 p.m., Wednesday, February 1, 1978.

On the roll call the vote was yeas 55-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Boswell, Brown, Bruce, Crupper, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Gay, Guy, Haering, Head, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Pearman, Petty, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Thomas, Tobin, Van Horn, Weinberg, Wilborn, Worthington. Nays 8-W. Allen, Deskins, Fitzgerald, Guenthner, Imes, Overstreet, Priddy, P. Richardson.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 1, 1978

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Burnette and Cyrus.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of January 31, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 345, by Representatives Boatwright, DeFalaise, W. Allen, Stone, Boswell, and Arnold: AN ACT relating to fish and wildlife.

HB 346, by Representatives Blythe and Benson: AN ACT relating to controlled substances and property subject to forfeiture.

HB 347, by Representative Blythe: AN ACT relating to use of physical force in law enforcement.

HB 348, by Representative Imes: AN ACT relating to leave of absence credit in the teachers' retirement system.

HB 349, by Representatives Fitzgerald and Benson: AN ACT relating to property valuation administrators.

HB 350, by Representative Hancock: AN ACT relating to military service credit within the Kentucky retirement systems and making an appropriation therefor.

HB 351, by Representative Trevey: AN ACT relating to workmen's compensation.

HB 352, by Representatives Clarke, B. Richardson, Fitzgerald, Schmidt, Adams, and O'Brien: AN ACT relating to legislative program review and investigations.

HB 353, by Representative Kidd: AN ACT relating to restaurants.

HB 354, by Representative Thomas: AN ACT relating to police in cities of the fourth class.

HB 355, by Representatives Williams and Benson: AN ACT relating to carrying concealed deadly weapons.

HB 356, by Representative Beshear: AN ACT relating to political contributions from income taxes paid.

HB 357, by Representative Maynard: AN ACT relating to the Kentucky penal code.

HB 358, by Representative B. Richardson: AN ACT relating to workmen's compensation.

HB 359, by Representative B. Richardson: AN ACT relating to pollution discharge.

HB 360, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 361, by Representative B. Richardson: AN ACT relating to wages and hours.

HB 362, by Representative B. Richardson: AN ACT relating to the parole board.

HB 363, by Representative B. Richardson: AN ACT relating to state purchasing.

HB 364, by Representatives LeMaster, Wright, Jones, May and Wells: AN ACT relating to school terms.

HB 365, by Representative Trevey: AN ACT relating to motor vehicle insurance.

HB 366, by Representatives Burch and Blandford: AN ACT relating to credit unions.

HR 37, by Representatives Siemens and Yates: A RESOLUTION directing a study of train derailments in the Commonwealth of Kentucky.

HJR 38, by Representatives Mann and Guenthner: A JOINT RESOLUTION to establish a special study commission to survey and define the needs of diabetic patients in the Commonwealth of Kentucky and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 339, HB 341, HB 344.**

Banking and Insurance: **HB 332, HB 337.**

Education: **HB 338, HB 340, HB 343, SB 26.**

Elections and Constitutional Amendments: **HB 342, SB 98.**

Health and Welfare: **HB 336.**

Judiciary-Statutes: **HB 334, HB 335, SB 90, SB 115.**

State Government: **HB 331, HB 333, HR 36.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 110,** with the Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HB 110** is as follows:

HB 110, AN ACT relating to the contracting for personal services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act:

(a) "Contracting body" means each state board, bureau, commission, department, division, authority, university, college, officer, or other entity, except the legislature, authorized by law to contract for personal services;

(b) "Subcommittee" means personal service contract review subcommittee;

(c) "Personal service contract" means an agreement whereby an individual, firm, partnership or corporation is to perform certain duties, professional or otherwise for a specified period of time for a price agreed upon, which are exempted from competitive bidding pursuant to KRS 45.360. This definition does not apply to agreements with public utilities.

(2) Compliance with the provisions of this Act does not dispense with the requirements of any other law necessary to make the personal service contract valid.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

Each contracting body shall file within ninety (90) days of July 1, 1978, in accordance with the provisions of this Act, a copy of all personal service contracts which are still effective, and a copy of all personal service contracts which were made by such contracting body prior to July 1, 1978 and which do not become effective until after July 1, 1978.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) No personal service contract made by any contracting body after July 1, 1978, shall become effective until after seven (7) copies of the personal service contract are forwarded to the office of the legislative research commission. Each service contract shall have a clause authorizing cancellation by the contracting agency on thirty (30) days' notice to the contractee.

(2) Each copy of a proposed personal service contract submitted to the legislative research commission shall be accompanied by documentation of:

(a) The need for such service; and

(b) The unavailability of state personnel to perform such service or the non-feasibility of utilizing state personnel to perform such service.

(3) The legislative research commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, with suitable indexes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a permanent subcommittee of the legislative research commission to be known as the personal service contract review subcommittee. The subcommittee shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible. The legislative research commission shall appoint from the membership of the general assembly, the members of the subcommittee for terms of two (2) years, and the members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the legislative research commission at its next regularly scheduled meeting after the occurrence of the vacancy.

(2) The subcommittee shall meet monthly at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings, as provided in KRS 7.090(2).

(3) Any professional, clerical or other employes required by the subcommittee shall be provided in accordance with the provisions of KRS 7.090(4) and (5).

(4) All copies of proposed personal service contracts received by the legislative research commission shall be submitted to the subcommittee to:

(a) Examine the stated need for the contract service;

(b) Examine whether the service could or should be performed by state personnel; and

(c) Examine the cost and duration of the contract.

The subcommittee's finding that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive shall be reported to the contracting body. In the event the subcommittee believes that the contract service, other than an emergency contract approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and shall return the personal service contract to the contracting body. Notice of such objection shall be given by the subcommittee to the director of the legislative research commission. The subcommittee shall act on a personal service contract submitted to the legislative research commission within thirty (30) days of the submission of the personal service contract.

(5) The contracting body shall report to the subcommittee in any case where objections were made, stating the contracting body's position and whether a cancellation or modification is proposed within sixty (60) days of receipt of the objections.

(6) In the event a contracting body reports to the subcommittee and does not propose action to comply with the objections, the personal service contract shall be referred by the director of the legislative research commission to the appropriations and revenue committees of the house of representatives and senate or to the interim committee on appropriations and revenue for review. In the event the standing committees of the house and senate or the interim committee determines that the contract service is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the standing committees or the interim committee shall attach to the personal service contract a written notation of its objection, including a statement of the reasons therefore, and the director shall send a copy of the objections to the contracting body and to the governor.

(7) The contracting body may revise a personal service contract to comply with the interim or standing committees' objections, and may return a copy of the revised personal service contract to said committee, or

may return a copy of the personal service contract with the interim or standing committees' notation attached, without change.

(8) The subcommittee shall report monthly to the legislative research commission all action taken on contracting bodies' personal service contracts. The director of the legislative research commission shall report to the commission all action taken by the standing committees or by the interim committee.

(9) All personal service contracts objected to by the subcommittee and by the standing committees or interim committee and not revised by the contracting body together with the notations of the subcommittee's, the standing committees', or interim committee's objection shall be transmitted by the director to the clerk of the senate and the clerk of the house of representatives on or before the first day of each regular session of the general assembly. The clerk of the senate and clerk of the house of representatives shall lay all such disputed personal service contracts before the senate and the house of representatives, respectively, for such action, as the respective legislative bodies may determine to be appropriate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The legislative research commission shall review and comment on the manner and form in which the documentation to accompany the proposed personal service contract shall be presented.

The Committee on Appropriations and Revenue reported **HB 143** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 143, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.070 is amended to read as follows:

The tax upon transfers of property as defined in the preceding sections of this chapter shall be at the following rates:

(1) Class A. In case the transfer is to or for the benefit of a parent, surviving spouse, child by blood, stepchild, child adopted during infancy or a grandchild who is the issue of a child by blood, of a stepchild or of a child adopted during infancy, the tax, subject to the *provisions of* [exemptions provided in] KRS 140.080, shall be:

On its value not exceeding $20,000	2%
On its value exceeding $20,000, but not exceeding $30,000	3%
On its value exceeding $30,000, but not exceeding $45,000	4%
On its value exceeding $45,000, but not exceeding $60,000	5%
On its value exceeding $60,000, but not exceeding $100,000	6%
On its value exceeding $100,000, but not exceeding $200,000	7%
On its value exceeding $200,000, but not exceeding $500,000	8%
On its value exceeding $500,000	10%

(2) Class B. In case the transfer is to or for the benefit of a brother, sister, brother or sister of the half-blood, nephew, niece, *or a* nephew or niece of the half-blood, daughter-in-law, son-in-law, aunt or uncle, the tax, subject to the *provisions of* [exemption provided in] KRS 140.080, shall be:

On its value not exceeding $10,000	4%
On its value exceeding $10,000, but not exceeding $20,000	5%
On its value exceeding $20,000, but not exceeding $30,000	6%
On its value exceeding $30,000, but not exceeding $45,000	8%
On its value exceeding $45,000, but not exceeding $60,000	10%
On its value exceeding $60,000, but not exceeding $100,000	12%
On its value exceeding $100,000, but not exceeding $200,000	14%
On its vallue exceeding $200,000	16%

(3) Class C. In case the transfer is to or for the benefit of any *educational, religious or other institutions, societies or associations, or to any cities, towns or public institutions* [person] not exempted by KRS 140.060, *or to any person not* [nor] included in either Class A or Class B, the tax, subject to the *provisions of* [exemption provided in] KRS 140.080 shall be:

On its value not exceeding $10,000	6%
On its value exceeding $10,000, but not exceeding $20,000	8%
On its value exceeding $20,000, but not exceeding $30,000	10%
On its value exceeding $30,000, but not exceeding $45,000	12%
On its value exceeding $45,000, but not exceeding $60,000	14%
On its value exceeding $60,000	16%

Section 2. KRS 140.080 is amended to read as follows:

(1) *The following exemptions chargeable against the lowest bracket or brackets of inheritable interests* [There] shall be free from any tax under the preceding provisions of this chapter [the following inheritable interests]:

(a) Surviving spouse, *$50,000* [$20,000];

(b)*1.* Infant child by blood or adoption, *$20,000;*

2. [or a] Child by blood *who has been declared incompetent by a court of competent jurisdiction, $20,000;* or a

3. Child adopted during infancy who has been declared incompetent by a court of competent jurisdiction, *$20,000* [$10,000];

(c)*1. Parent, $5,000;*

2. Child by blood, $5,000;

3. Stepchild, $5,000;

4. Child adopted during infancy, $5,000; or a

5. Grandchild who is the issue of a child by blood, or of a stepchild or of a child adopted during infancy [All other persons of Class A, under KRS 140.070], $5,000;

(d) All persons of Class B, under KRS 140.070, $1,000; and

(e) All persons of Class C, under KRS 140.070, $500.

(2) If the decedent was not a resident of this state, the exemption shall be the same proportion of the allowable exemption in the case of residents that the property taxable by this state bears to the whole property transferred by the decedent.

[(3) The exemptions provided in this section shall be subtracted from the value of the respective distributive shares before the rates, provided in KRS 140.070, are applied thereto to determine the amount of tax due thereon.]

SECTION 3. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter to the contrary, when a distributive share of a Class A beneficiary in an estate consists of a farm or other closely held business or interest therein, the beneficiary of such interest may elect to pay the inheritance tax as finally determined for the beneficiary in five (5) equal installments with the first installment due at the time the return is filed and with succeeding payments due in annual installments beginning one (1) year after the return is filed. Deferment of tax under this section shall be subject to the following conditions:

(a) The net tax due from the qualifying beneficiary's distributive share must exceed five thousand dollars ($5,000).

(b) The interest in the farm or other closely held business must be at least seventy-five percent (75%) of the beneficiary's total distributive share.

(c) In the case of disposition of any interest in the farm or closely held business by the qualifying beneficiary, the balance of the tax will immediately become due.

(2) For purposes of this chapter a farm is defined as real and tangible personal property actively and primarily used for farming activities.

(3) For purposes of this chapter, an interest in a closely held business includes:

(a) Any interest as a proprietor in a business carried on as a proprietorship;

(b) Any interest in a trade, business or corporation with no more than ten (10) partners or stockholders.

(4) The portion of the tax deferred under this section shall be charged with interest at eight percent (8%) per annum, commencing eighteen (18) months after the date of death.

(5) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the department of revenue at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the department of revenue of all other taxes due under this chapter.

(6) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid. The amount of taxes deferred under this section shall be and remain a lien upon all real and personal property used in the operation of the farm or closely held business, excluding livestock, crops and inventory produced or held for current sale, until all the deferred taxes, together with interest and penalties thereon have been paid. This lien may be recorded and enforced as other liens on similar property are recorded and enforced.

(7) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall apply when death occurs on or after July 1, 1978.

The Committee on Banking and Insurance reported **HB 37,** with Committee Amendment attached thereto, and **HB 151** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 37, AN ACT relating to credit and debit card crimes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 434.550 is amended to read as follows:
KRS 434.550 to 434.730 may be cited as the Credit *and Debit* Card Crime Act.

Section 2. KRS 434.560 is amended to read as follows:
As used in KRS 434.550 to 434.730, unless the context otherwise requires:
(1) "Automated banking device" means any machine which when properly activated by a "debit card" or a personal identification code will perform any of the following services:
(a) Dispense money as a debit to the cardholder's savings or checking account; or
(b) Print the cardholder's savings or checking account balances on a statement; or
(c) Transfer funds between a cardholder's savings and checking account; or
(d) Accept payments on a cardholder's loan; or
(e) Dispense cash advances on an open end credit or a revolving charge agreement; or
(f) Accept deposits to a customer's savings or checking account; or
(g) Receive inquires of verification of checks and dispense information which verifies that funds are available to cover said checks; or
(h) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization.
(2) [(1)] "Cardholder" means the person or organization named on the face of a credit *or debit* card to whom or for whose benefit the credit *or debit* card is issued by an issuer.
(3) [(2)] "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit.
(4) "Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services and anything else of value, payment of which is made against funds previously deposited by cardholder.
(5) "Electronic Funds Transfer System" hereafter referred to as E.F.T.S. system means that system whereby funds are transferred electronically from a cardholder's account to any other account.
(6) [(3)] "Expired credit card" means a credit card which is no longer valid because the term shown on it has *expired* [elapsed].
(7) "Expired debit card" means a debit card which is no longer valid because the term shown on it has expired.
(8) [(4)] "Issuer" means the business organization or financial institution which issues a credit *or debit* card or its duly authorized agent.
(9) [(5)] "Participating party" means a business organization or financial institution, or any duly authorized agent of such business organization or financial institution, which is obligated by contract to acquire from a person, business organization or financial institution providing money, goods, services or anything else of value, a sales slip, sales draft or other instrument evidencing a credit *or debit* card transaction and from whom the issuer is obligated by contract to acquire or participate in such sales slip, sales draft or other instrument.
(10) "Presentation or presents" as used herein shall be construed to define those actions taken by a cardholder or any person to introduce a credit or debit card into an automated banking device or merely displaying or showing a credit or debit card to the issuer, a person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud.
(11) [(6)] "Receives" or "receiving" means acquiring possession or control of [or] the possession *or accepting as security for a loan* of a credit *or debit* card.
(12) [(7)] "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.
(13) "Revoked debit card" means a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

Section 3. KRS 434.570 is amended to read as follows:
In addition and supplemental to the acts proscribed under KRS 517.090, a person who makes or causes to be made, either directly or indirectly, any false statement in writing, knowing it to be false and with intent that it be relied on, respecting his identity or that of any other person, firm or corporation, or as to a material fact about his financial condition or that of any other person, firm or corporation, for the purpose of procuring

the issuance of a credit *or debit* card, is guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years.

Section 4. KRS 434.580 is amended to read as follows:

(1) A person who takes a credit *or debit* card from the person, possession, custody or control of another without the consent of the cardholder or of the issuer or who, with knowledge that it has been so taken, receives the credit *or debit* card with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730. Taking a credit *or debit* card without consent includes obtaining it by conduct defined or known as statutory larceny, common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses, false promise or extortion.

(2) A person who has in his possession or under his control two or more credit *or debit* cards which have been taken or obtained in violation of subsection (1) of this section is presumed to know that the credit *or debit* cards have been so taken or obtained.

Section 5. KRS 434.590 is amended to read as follows:

A person who receives a credit *or debit* card that he knows to have been lost, mislaid, or delivered under a mistake as to the identity or address of the cardholder, and who retains possession with intent to use it or to sell it or to transfer it to a person other than the issuer or the cardholder is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730.

Section 6. KRS 434.600 is amended to read as follows:

A person other than the issuer who sells a credit *or debit* card or a person who buys a credit *or debit* card from a person other than the issuer is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730.

Section 7. KRS 434.610 is amended to read as follows:

A person who, with intent to defraud the issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person, obtains control over a credit *or debit* card as security for debt is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730.

Section 8. KRS 434.620 is amended to read as follows:

A person, other than the issuer, who receives a credit *or debit* card which he knows was obtained, taken or retained under circumstances which constitute a violation of KRS 434.570 to 434.610 is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730.

Section 9. KRS 434.630 is amended to read as follows:

(1) A person who, with intent to defraud a purported issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person, falsely makes or falsely embosses a purported credit *or debit* card, or utters such a credit *or debit* card or possesses such a credit *or debit* card with knowledge that such credit *or debit* card has been falsely made or falsely embossed is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730.

(2) A person other than the purported issuer who possesses two or more credit *or debit* cards which are falsely made or falsely embossed is presumed to possess the same with knowledge that they have been falsely embossed or falsely made and with the intent to defraud.

(3) A person "falsely makes" a credit *or debit* card when he makes or draws, in whole or in part, a device or instrument which purports to be the credit *or debit* card of a named issuer but which is not such a credit *or debit* card because the issuer did not authorize the making or drawing, or alters a credit *or debit* card which was validly issued. A person "falsely embosses" a credit *or debit* card when, without the authorization of the named issuer, he completes a credit *or debit* card by adding any of the matter, other than the signature of the cardholder, which an issuer requires to appear on the credit *or debit* card before it can be used by a cardholder.

Section 10. KRS 434.640 is amended to read as follows:

A person other than the cardholder or a person authorized by him who, with intent to defraud the issuer, or a participating party, or a person or organization providing money, goods, services or anything else of value, or any other person, signs a credit *or debit* card is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730.

Section 11. KRS 434.650 is amended to read as follows:

(1) A person who, with intent to defraud the issuer, a participating party, a person or organization providing money, goods, services or anything else of value, or any other person:

(a) Uses for the purpose of obtaining money, goods, services or anything else of value a credit *or debit* card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit *or debit* card which he knows is forged, expired or revoked; or

(b) Obtains money, goods, services or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; or

(c) Uses a credit *or debit* card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit *or debit* card which he knows is forged, expired or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or KRS 516.030*; or*

(d) Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered or counterfeit check, draft, money order, or any other such document not his lawful or legal property, is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services or other things of value obtained in violation of this section does not exceed one hundred dollars ($100) in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value exceeds one hundred dollars ($100) in any six-month period.

(2) A person who receives money, goods, services or anything else of value as a result of a false, fictitious, forged, altered or counterfiet check, draft, money order or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services or item of value that the document so deposited was false, fictitious, forged, altered or counterfiet or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.

(3) [(2)] Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit *or debit* card or at his last known address by registered or certified mail, return receipt requested, and, if, the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

Section 12. KRS 434.680 is amended to read as follows:

(1) A person other than the cardholder possessing an incomplete credit *or debit* card, or possessing a purported distinctive element of a credit *or debit* card, with intent to complete such incomplete credit *or debit* card or to utilize such purported distinctive element in the production or reproduction of any credit *or debit* card without the consent of the issuer, or a person possessing, with knowledge of its character, a distinctive element of any credit *or debit* card or any machinery, plates or any contrivance designed to produce or reproduce instruments purporting to be the credit *or debit* cards, or a distinctive element of the credit *or debit* cards, of an issuer or of any issuer in a group of issuers utilizing a common distinctive element or elements in credit *or debit* cards issued by all members of such group, who has not consented to the production or reproduction of such card, is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730. A credit *or debit* card is "incomplete" if part of the matter other than the signature of the cardholder, which an issuer or any issuer in a group of issuers utilizing a common distinctive element or elements in credit *or debit* cards issued by all members of such group, requires to appear on the credit *or debit* card before it can be used by the cardholder has not yet been stamped, embossed, imprinted or written on it. A "distinctive element" of a credit *or debit* card is any material or component used in the fabrication of credit *or debit* cards which, by virtue of such element's chemical or physical composition, color or design is unique to the credit *or debit* cards issued by a particular issuer or group of issuers utilizing a common distinctive element or elements in credit *or debit* cards issued by all members of such group.

(2) A person other than the cardholder or issuer who possesses two or more incomplete credit *or debit* cards is presumed to possess the same without the consent of the issuer and with the intent to complete them.

SECTION 13. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) Any person who, with intent to defraud the issuer, the cardholder, or any other person or organization, intercepts, taps or alters electronic information between an automated banking machine and the issuer, or originates electronic information to an automated banking device or to the issuer, via any line, wire, or any other means of electronic transmission, at any junction or terminal, or at any location with E.F.T.S. system, for the purpose of obtaining money, goods, services or anything else of value, violates this subsection and is subject to the penalties set forth in subsection (2) of KRS 434.730.

(2) Any person who, with intent to defraud the issuer, cardholder, or any other person or organization, intercepts, taps or alters electronic information between an automated banking machine and the issuer, or originates electronic information to an automated banking machine or to the issuer, via any line, wire, or other means of electronic transmission, at any junction or terminal, or at any location within the E.F.T.S. system, and therefore causes funds to be transferred from one account to any other account, violates this subsection and is subject to the penalties set forth in subsection (2) of KRS 434.730.

Section 14. KRS 434.690 is amended to read as follows:

(1) A person who receives money, goods, services or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services and other things of value received in violation of this section does not exceed $100 in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value exceeds $100 in any six-month period.

(2) A person who possesses three or more tickets for airline, railroad, steamship or other transportation service, which tickets were obtained by the use of a stolen or forged credit *or debit* card is presumed to know that such tickets were so obtained.

Section 15. KRS 434.660 is amended to read as follows:

A person, business organization or financial institution who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit *or debit* card by a cardholder, or any agent or employe of such person, business organization or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder, or any other person, furnishes money, goods or services or anything else of value upon presentation of a credit *or debit* card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit *or debit* card which he knows is forged, expired or revoked is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the value of all money, goods, services or other things of value furnished in violation of this section does not exceed $100 in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such value exceeds $100 in any six-month period.

Section 16. KRS 434.670 is amended to read as follows:

A person, business organization or financial institution who is authorized by an issuer to furnish money, goods, services or anything else of value upon presentation of a credit *or debit* card by a cardholder, or any agent or employe of such person, business organization or financial institution, who, with intent to defraud the issuer, a participating party, the cardholder or any other person, fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished is guilty of a misdemeanor and is subject to the penalties set forth in subsection (1) of KRS 434.730, if the difference between the value of all money, goods, services or anything else of value actually furnished and the value represented to the issuer to have been furnished does not exceed $100 in any six-month period; and is guilty of a felony and is subject to the penalties set forth in subsection (2) of KRS 434.730, if such difference exceeds $100 in any six-month period.

SECTION 17. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, stolen or not received is deemed to have used said credit or debit card in order to defraud the issuer, and therefore violates this subsection and is subject to the penalties set forth in subsection (1) of KRS 434.730.

(2) A cardholder who, after using a credit or debit card, fraudulently reports to the issuer that such usage or transaction was not made by said cardholder, or that said credit or debit card was lost, stolen, or not received at the time of such usage or transaction, in order to defraud the issuer, the cardholder, or any other person, violates this subsection and is subject to the penalties set forth in subsection (1) of KRS 434.730.

SECTION 18. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

The presentation or use of an expired, false, fictitious, unauthorized or counterfeit, credit or debit card, or other credit or debit device for the purpose of obtaining money, goods, services or anything else of value shall be prima facie evidence of knowledge that the said credit or debit device is expired, false, fictitious, counterfeit, or its use is unauthorized.

SECTION 19. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

In the event of the existence of prima facie evidence of fraudulent intent as defined in this Act and proper notice given as required, any person, firm or corporation causing the arrest of a person so using a credit or debit card shall not be criminally or civilly liable for false arrest or false imprisonment.

The Committee Amendment to **HB 37** is as follows:

Amend printed copy of **HB 37,** page 1, line 10, by deleting line 10 as written in its entirety and substituting therefor "which when properly activated by a credit card, debit card or per-"

Page 2, lines 25 and 26, by deleting lines 25 and 26 as written in their entirety and substituting therefor "(5) "E.F.T. System" means an electronic funds transfer system whereby"

Page 4, line 6, by deleting "of the possession or accepting"

Page 4, line 7, by deleting "as security for a loan"

Page 10, line 5, by deleting "counterfiet" and substituting therefor "counterfeit"

Page 10, line 10, by deleting "counterfiet" and substituting therefor "counterfeit"

Page 12, line 18, by inserting "(a)" prior to word "intercepts"

Page 12, line 19, by deleting "machine" and substituting therefor "device"

Page 12, line 20, by inserting "(b)" prior to word "originates"

Page 12, line 23, by deleting "with E.F.T.S. system," and substituting therefor "within an E.F.T. System,"

Page 13, line 5, by deleting "machine" and substituting therefor "device"

Page 13, line 7, by deleting "machine" and substituting therefor "device"

Page 13, line 9, by deleting "E.F.T.S. system," and substituting therefor "E.F.T. System,"

Page 16, line 17, by deleting "an expired," and substituting therefor "a"

Page 16, line 22, by deleting "expired,"

HB 151, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Wilfully violated or wilfully failed to comply with any lawful order of the commissioner; or

(b) Wilfully violated or wilfully failed to comply with any lawful regulation of the commissioner; or

(c) Wilfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law.

In lieu of such suspension or revocation, the commissioner may, in his discretion, levy upon the insurer, and the insurer shall pay forthwith, an administrative fine of not more than two thousand dollars ($2,000).

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has knowledge that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of this section:

(a) "Implied authority" means that which is proper, usual, and necessary to the exercise of the authority granted in the agency contract;

(b) "Apparent authority" means written or spoken words or any other conduct of the insurer which, reasonably interpreted, causes the third person to believe that the insurer consents to have the act done on his behalf by the person purporting to act for him.

(2) An insurer is liable for the acts of an agent:

(a) Acting with expressed or implied authority;

(b) Acting with apparent authority unless the insured knows the agent exceeded his powers; or

(c) Which usually accompany or are incidental to transactions which the agent is authorized to conduct if, although the acts are forbidden by the insurer, the insured reasonably believes that the agent is authorized to do them and has no notice that he is not so authorized.

(3) If an agent is employed by more than one insurer and there is no showing as to which insurer he is acting for at the time of the alleged wrongful act, each insurer shall be equally liable for the act of the agent under this section.

The Committee on Banking and Insurance reported **HB 172,** with Committee Substitute attached thereto, and **SB 67** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 172, AN ACT relating to insurance

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.17-050 TO 304.17-160 IS CREATED TO READ AS FOLLOWS:

There shall be a provision as follows:

"This policy shall cover a claim for loss or disability (as defined in the policy) resulting from a disease or physical condition pre-existing prior to the effective date of coverage of the policy if the disease or physical condition existed undiagnosed and if the insured had no actual knowledge of the disease or physical condition."

Section 2. KRS 304.18-030 is amended to read as follows:

Each such group health insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants or the policyholders or by an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall void such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employe or member of the insured group a statement in summary form of the essential features of the insurance coverage of such

employe or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employes or members or dependents, as the case may be, in accordance with the terms of the policy.

(4) A provision that the policy shall cover a claim for loss or disability (as defined in the policy) resulting from a disease or physical condition pre-existing prior to the effective date of coverage of the policy if the disease or physical condition existed undiagnosed and if the insured had no actual knowledge of the disease or physical condition.

The Committee Substitute to **HB 172** is as follows:

HB 172, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Policies hereafter issued or renewed, subject to this subtitle, shall cover a claim for loss or disability (as defined in the policy) resulting from a disease or physical condition pre-existing prior to the effective date of coverage of the policy if the disease or physical condition existed undiagnosed and if the insured had no actual knowledge of symptoms which would cause an ordinary prudent person to seek diagnosis or treatment.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Policies hereafter issued or renewed, subject to this subtitle, shall cover a claim for loss or disability (as defined in the policy) resulting from a disease or physical condition pre-existing prior to the effective date of coverage of the policy if the disease or physical condition existed undiagnosed and if the insured had no actual knowledge of symptoms which would cause an ordinary prudent person to seek diagnosis or treatment.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Subscription certificates or membership certificates hereafter issued or renewed, subject to this subtitle, shall cover a claim for benefits or services (as described in the certificate) resulting from a disease or physical condition pre-existing prior to the effective date of coverage of the certificate if the disease or physical condition existed undiagnosed and if the member, subscriber or dependent otherwise entitled to such benefit or service had no actual knowledge of symptoms which would cause an ordinary prudent person to seek diagnosis or treatment.

SB 67, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:

(1) The 1st day of January (New Year's Day), the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the last Monday in May (Memorial Day), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this Commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.

(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the 15th day of January (Martin Luther King Day), the 19th day of January

(Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the 11th day of November (Veterans Day), *provided that any bank, trust company or combined bank and trust company electing to close on any of the above holidays shall provide fifteen (15) days notice to the public of such closing by posting a statment to such effect in some conspicuous place in said institution.* Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the *Uniform Commercial Code* [negotiable instrument law] or any other law of the Commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday [, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197]. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this Commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned [legal] holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this Commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

Section 2. KRS 287.197 is repealed.

The Committee on Education reported **HB 71, SB 23, SB 24,** and **SB 29** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 71, AN ACT relating to instruction in economics in the public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Instruction in general economics with particular emphasis on developing an understanding of the free enterprise system shall be conducted in the public schools in conjunction with courses in any appropriate area of study.

(2) The department of education shall assist school districts in carrying out the provisions of subsection (1) of this Act by developing appropriate instructional materials, methods of instruction and methods of evaluating the effectiveness of such instruction.

SB 23, AN ACT relating to secretaries of local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.440 is amended to read as follows:

Each board of education shall appoint a secretary for a term of one (1), two (2), three (3) or four (4) years. The secretary shall not be a member of the board of education. The board of education of any district may appoint its superintendent as secretary [, and the board of education of an independent school district embracing a city of the first or second class may appoint its business manager or assistant superintendent of schools in charge of business affairs as secretary]. The board may fix a reasonable salary for the secretary. The secretary shall keep the records of the board and perform other duties imposed upon him by the board. All orders of the board must be signed by the secretary and countersigned by the chairman of the board. The secretary shall be custodian of all securities, documents, title papers and other papers of the board under such conditions as the board may direct. The secretary, when other than the superintendent, shall make all records of the board available to the superintendent at any time and shall furnish the superintendent of schools such information as is revealed by his records at any time upon the request of the superintendent.

SB 24, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.450 is amended to read as follows:
The fiscal year of all school districts shall begin on July 1 and end on June 30 [, except in those districts where the law governing the municipality which they embrace provides otherwise; Provided, however, That any independent school district in a county containing a city of the second class may elect to adopt a fiscal year which shall begin on July 1 and end on June 30].

SB 29, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.210 is amended to read as follows:
(1) Each teacher or other person in the public schools shall make reports and inventories to the district superintendent at the time and in the manner prescribed by the district board of education and the state board of education.
(2) No teacher shall wilfully make a false monthly or term report of time taught or other item or shall wilfully fail to make a required report.
[(3) Any teacher who closes any school term before the close of the school year shall make a report to the superintendent immediately after the close of the term. Any teacher who is teaching any school at the end of the school year shall in his annual report include all statistics for the entire school year, notwithstanding any previous report for a part of the year.]

The Committee on Highways and Traffic Safety reported **HB 26, HB 201** with Committee Amendment attached thereto, and **HB 234** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 26, AN ACT relating to traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.290 is amended to read as follows:
(1) The operator of any vehicle upon a highway shall operate the vehicle in a careful manner, with regard for the safety and convenience of pedestrians and other vehicles upon the highway. *Any violation of this provision shall constitute careless driving.*
(2) No person shall wilfully operate any vehicle on any highway in such a manner as to *damage* [injure] the highway.
(3) Any person who operates any vehicle in wilful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Section 2. KRS 189.990 is amended to read as follows:
(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290 *except subsection (3),* 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than $10.00 nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than $10.00 nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than $1.00 nor more than $20.00. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.
(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or

less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than $50.00 nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than $5.00 nor more than $50 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than $5.00.

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than $25.00 nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than $15.00 nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than $5.00 in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than $10.00 nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than $25.00 nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than $25.00 nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than $10.00 nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than $20.00 nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than $10.00 nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not exceeding $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than $10.00 nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than $15.00 nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than twenty-five (25) dollars nor more than one hundred (100) dollars or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than $25 nor more than $500, or by both such fine and imprisonment, and on a second or subsequent

conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than $50 nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Every person convicted of reckless driving as provided in subsection (3) of KRS 189.290 shall be punished upon a first conviction by a fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), and on a second conviction shall be punished by imprisonment for not less than five (5) days nor more than ninety (90) days, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment, and on a third or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by both such fine and imprisonment.

HB 201, AN ACT relating to motor vehicle accident reports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.635 is amended to read as follows:

(1) The department of justice, bureau of state police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or non-fatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the bureau of state police within ten days after investigation of the accident upon forms supplied by the bureau.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding two hundred dollars ($200) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the bureau of state police within ten (10) days of occurrence of the accident upon forms provided by the bureau.

(5) All accident reports filed with the bureau of state police in compliance with subsections (3) and (4) above shall remain confidential except that the bureau may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. *The bureau shall not furnish any person the accident report of a driver, other than himself, but may send accident reports to the department of transportation.*

Section 2. KRS 187.310 is amended to read as follows:

The department shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620, which abstract shall also fully designate the motor vehicles, if any, registered in the name of such person, and if there shall be no record of any conviction of such person of violating any law relating to the operation of a motor vehicle or of any injury or damage caused by such person, the department shall so certify. Such abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. *The certified abstract shall not include accident reports filed with the bureau of state police under KRS 189.635 and the department shall not furnish to any person the accident report of a driver other than himself.*

Section 3. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address and the registration number of the vehicle he is driving, or shall file a report with the local police department.

[(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of two hundred dollars or more is sustained shall, within twenty (20) days, report the matter in writing to the department of transportation.

(4) Whenever the operator of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident who is capable of making a report, that occupant shall make the report or cause it to be made.

(5) The state police may require the operator to file supplemental reports whenever the original report required by subsection (3), is, in its opinion, insufficient. It may also require witnesses of accidents to render reports to the state police.]

Section 4. KRS 187.320 is repealed.

The Committee Amendment to **HB 201** is as follows:

Amend printed copy of **HB 201,** page 1, line 1, delete lines 1 through 21 in its entirety;

Page 2, line 1, delete lines 1 through 26 in its entirety;

Page 3, line 1, delete line 1;

Page 3, line 2, "Section 2" becomes "Section 1";

Page 3, line 20, "Section 3" becomes "Section 2";

Page 4, line 16, "Section 4" becomes "Section 3".

HB 234, AN ACT relating to fines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045 (5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than *$25.00* [$10.00] nor more than $100 for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than *$25.00* [$10.00] nor more than $2,000 or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than *$17.00* [$2.00] nor more than $500 or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of $100 which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the department.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the

court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 2. KRS 186.991 is amended to read as follows:

(1) Any person who violates, or causes, aids, or abets any violation of KRS 186.052, 186.053, 186.281 and 186.286 or of any order, rule, or regulation lawfully issued pursuant thereto, shall be fined not less than *thirty* [fifteen] dollars *($30.00)* [($15.00)] nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(2) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 3. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 and 189.391 shall be:

Mph. Over	Prima Facie or Maximum Speed									
Limit	15	20	25	30	35	40	45	50	55	Fine
1	16	21	26	31	36	41	46	51	56	$ 1
2	17	22	27	32	37	42	47	52	57	2
3	18	23	28	33	38	43	48	53	58	3
4	19	24	29	34	39	44	49	54	59	4
5	20	25	30	35	40	45	50	55	60	5
6	21	26	31	36	41	46	51	56	61	21[6]
7	22	27	32	37	42	47	52	57	62	22[7]
8	23	28	33	38	43	48	53	58	63	23[8]
9	24	29	34	39	44	49	54	59	64	24[9]
10	25	30	35	40	45	50	55	60	65	25[10]
11	26	31	36	41	46	51	56	61	66	27[12]
12	27	32	37	42	47	52	57	62	67	29[14]
13	28	33	38	43	48	53	58	63	68	31[16]
14	29	34	39	44	49	54	59	64	69	33[18]
15	30	35	40	45	50	55	60	65	70	35[20]
16	31	36	41	46	51	56	61	66	71	37[22]
17	32	37	42	47	52	57	62	67	72	39[24]
18	33	38	43	48	53	58	63	68	73	41[26]
19	34	39	44	49	54	59	64	69	74	43[28]
20	35	40	45	50	55	60	65	70	75	45[30]
21	36	41	46	51	56	61	66	71		48[33]
22	37	42	47	52	57	62	67	72		51[36]
23	38	43	48	53	58	63	68	73		54[39]
24	39	44	49	54	59	64	69	74		57[42]
25	40	45	50	55	60	65	70	75		60[45]

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than *sixty-five* [fifty] dollars *($65.00)* [($50.00)] nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed the defendant may elect to pay the fine to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) In the event that the fine is paid to the clerk before trial date costs shall be ten dollars ($10).

(6) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, shall be fined not less than *$25.00* [$10.00] nor more than $100 for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than *$25.00* [$10.00] nor more than $2,000 or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than *$16.00* [$1.00] nor more than *$35.00* [$20.00]. Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2)(a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2¢) per pound for each pound of excess load when the excess is 2,000 pounds or less, three cents (3¢) per pound when the excess exceeds 2,000 pounds and is 3,000 pounds or less, five cents (5¢) per pound when the excess exceeds 3,000 pounds and is 4,000 pounds or less, seven cents (7¢) per pound when the excess exceeds 4,000 pounds and is 5,000 pounds or less, and nine cents (9¢) per pound when the excess exceeds 5,000 pounds but in no case shall the fine be less than *$65.00* [$50.00] nor more than $500.

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined [in any sum] not *less than $15.00 nor more than* [exceeding] $500.

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the bureau of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or driver's or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than *$20.00* [$5.00] nor more than $50 for each day he operates a truck in violation of KRS 189.170.

(4)(a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than *$20.00* [$5.00].

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than *$40.00* [$25.00] nor more than $200.

(5)(a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than *$30.00* [$15.00] nor more than $100.

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than *$30.00* [$15.00] nor more than $100.

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not *less than $15.00 nor* more than $500 or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than *$20.00* [$5.00] in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than *$25.00* [$10.00] nor more than $50.00.

(9)(a) Any person who violates subsection (2) of KRS 189.520 shall be fined, for the first offense, not less than $100 nor more than $500; for the second offense, a fine of not less than $100 nor more than $500 and imprisoned for not less than three (3) days nor more than six (6) months; for each subsequent offense he shall be fined not less than $100 nor more than $500 and imprisoned for not less than thirty (30) days nor more than twelve (12) months.

(b) Any peace officer who violates subsection (3) of KRS 189.520 shall be fined not less than *$40.00* [$25.00] nor more than $100.

(10) Any person who violates KRS 189.530 shall be fined not less than *$40.00* [$25.00] nor more than $100 or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than *$25.00* [$10.00] nor more than $100 for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than *$35.00* [$20.00] nor more than $100 for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road

or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than *$25.00* [$10.00] nor more than $100 for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not *less than $15.00 nor more than* [exceeding] $25.00.

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than *$25.00* [$10.00] nor more than $100 for each offense.

(17)(a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than *$25.00* [$15.00] nor more than $200, or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than $100 nor more than $500. Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than *forty* [twenty-five] dollars *($40.00)* [($25.00)] nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than *$40.00* [$25.00] nor more than $500, or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than *$65.00* [$50.00] nor more than $1,000, or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157(2).

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not *less than $15.00 nor* more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 5. KRS 189.993 is amended to read as follows:

(1) Any person who violates KRS 189.045 shall be fined not less than $100 nor more than $1,000.

(2) Any person convicted of violating any of the provisions of KRS 189.095 shall be fined *$65.00* [$50.00] and costs of prosecution.

(3) Any person who violates any provision of KRS 189.205 shall be fined not less than *$25.00* [$10.00] nor more than $100.

(4) Any person, firm or corporation violating the provisions of KRS 189.275 shall be fined not less than *$35.00* [$20.00] nor more than $100.

(5) Any person who violates any provision of KRS 189.375 shall be fined not less than *$25.00* [$10.00] nor more than $100.

(6)(a) Any person who is not a handicapped person as prescribed in KRS 189.455 and who wilfully and falsely represents himself as having the qualifications to obtain such vehicle registration plates in an attempt to procure the special plates prescribed by KRS 189.455 shall be fined *$65.00* [$50.00], and in default of payment, shall be imprisoned for not more than ten (10) days.

(b) Any person owning a vehicle bearing such vehicle registration plates, and not entitled to do so under the provisions of KRS 189.455, shall be fined *$65.00* [$50.00], and in default of payment, shall be imprisoned for not more than ten (10) days.

(7) Any person who violates KRS 189.505 shall be fined not less than *$65.00* [$50.00] nor more than $200 or be imprisoned for not more than thirty (30) days, or both.

(8) Any person who violates any of the provisions of subsection (1) of KRS 189.645 or subsection (4) of 189.730 shall be fined not less than *$16.00* [$1.00] nor more than $100.

(9) Any person who violates any of the provisions of subsection (1) of KRS 189.651 shall be fined not less than $500 nor more than $5,000 or shall be confined in the penitentiary for not less than one (1) nor more than ten (10) years.

(10) Any person operating an official inspection station who violates any of the provisions of subsection (4) of KRS 189.651 shall have his permit revoked.

(11) Any person who violates any of the provisions of subsection (1) of KRS 189.655 or subsection (3) of KRS 189.651 shall be confined in the pentitentiary for not less than one (1) nor more than five (5) years.

(12) Any person who violates any of the provisions of subsection (3) of KRS 189.655 or subsection (2) of KRS 189.651 or subsection (3) of KRS 189.730 shall be fined not less than $100 nor more than $500.

(13) Any person found violating any provision of KRS 189.820 or 189.830 is guilty of a misdemeanor and shall be fined not less than *$25.00* [$10.00] nor more than *$40.00* [$25.00].

(14) Any person who violates KRS 189.920 shall be fined not less than $100 nor more than $1,000, or imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(15) Any person who violates KRS 189.930 shall be fined not less than *$65.00* [$50.00] nor more than $500, or be imprisoned in the county jail for not more than thirty (30) days, or both.

(16) Any person who violates KRS 189.940 shall be fined not less than *$65.00* [$50.00] nor more than $1,000 or be imprisoned in the county jail for not more than six (6) months, or both. In the case of a private vehicle, all lighting and other equipment used in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(17) If a member of a regular or voluntary fire department or rescue squad violates any provisions of subsection (5) of KRS 189.940, he shall, in addition to any other penalty provided under KRS 189.990 or 189.993, be immediately dismissed from his membership or employment with the fire department or rescue squad and shall be disqualified from being employed by or being a member of any fire department or rescue squad in the commonwealth for a period of three (3) years. Upon conviction of a second offense he shall be permanently barred from employment or membership in any fire department, rescue squad, police department, or sheriff's office in the commonwealth, nor shall he be permitted to operate any public safety vehicle as defined in KRS 189.910.

(18) Any person who violates KRS 189.950 shall be fined not less than $100 nor more than $1,000 or be imprisoned in the county jail for not more than thirty (30) days, or both. In the case of a privately owned vehicle, all lighting and other equipment used or installed in violation of KRS 189.910 to 189.950 shall be confiscated and forfeited to the county in which the offense occurred.

(19) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall, upon conviction, be fined not less than *$25.00* [$10.00] nor more than $100 for each offense.

(20) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 6. KRS 281.990 is amended to read as follows:

(1) Any person who violates, or causes, aids or abets any violation of, any of the provisions of this chapter or any order, rule or regulation lawfully issued pursuant to authority granted by this chapter, or who knowingly makes any false or erroneous statement, report or representation to the department of motor transportation with respect to any matter placed under the jurisdiction of the department by this chapter, or who knowingly makes any false entry in the accounts or records required to be kept pursuant to the authority granted by this chapter, or who knowingly fails to keep, or knowingly destroys or mutilates, any such accounts or records, shall be fined not less than *thirty* [fifteen] dollars *($30.00)* [($15.00)] nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both. Every device to evade or to prevent the application of any provision of this chapter, or any lawful order, rule or regulation of the department issued pursuant thereto, shall constitute a violation thereof.

(2) Any person who violates KRS 281.615 shall be fined not less than *sixty-five* [fifty] dollars *($65.00)* [($50.00)] nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(3) In addition to the penalties prescribed in subsection (1) of this section, in case of violation by any person in whose name an industrial bus is licensed, such person shall forfeit all certificates and permits held by him, and shall not be eligible to hold any certificate or permit for a period of five (5) years thereafter.

(4) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 7. KRS 534.030 is amended to read as follows:

(1) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any felony and granted a sentence of probation or conditional discharge may be sentenced to pay a fine in an amount not to exceed $10,000 or double his gain from commission of the offense, whichever is the greater.

(2) In determining the amount and method of paying a fine for commission of a felony, the court shall consider, among others, the following factors:

(a) The defendant's ability to pay the amount of the fine;

(b) The hardship likely to be imposed on the defendant's dependents by the amount of the fine and the time and method of paying it;

(c) The impact the amount of the fine will have on the defendant's ability to make reparation or restitution to the victim; and

(d) The amount of the defendant's gain, if any, derived from the commission of the offense.

(3) When a defendant is convicted of two or more felonies committed through a single act and is sentenced to fines pursuant to subsection (1), the aggregate amount of such fines shall not exceed $10,000 or double the amount of the defendant's gain from commission of the offenses, whichever is the greater.

(4) This section does not apply to a corporation.

(5) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

Section 8. KRS 534.040 is amended to read as follows:

(1) Fines and imprisonment for misdemeanors shall not be mutually exclusive. In any case where imprisonment is authorized a fine may be levied in addition to the imprisonment or a fine may be levied as an alternative to imprisonment. Similarly, a fine may be levied in lieu of imprisonment. Whether or not the fine is to be levied as the sole penalty or as an additional or alternative penalty shall be in the discretion of the judge or jury as the case may be. If the trial is by jury then the jury shall have the discretion. This rule shall apply in all cases where a fine is not the exclusive penalty authorized by law.

(2) Except as otherwise provided for an offense defined outside this code, a person who has been convicted of any offense other than a felony may be sentenced to pay a fine in an amount not to exceed:

(a) For a Class A misdemeanor, $500; or

(b) For a Class B misdemeanor, $250; or

(c) For a violation, $250.

(3) This section does not apply to a corporation.

(4) The sum of $15.00 from all fines collected pursuant to this section shall be paid into a trust and agency account maintained by the department of justice for the purpose of compensating law enforcement officers as authorized by law.

The Committee on Judiciary-Statutes reported **HB 160** with Committee Substitute attached thereto, **HB 185** with Committee Amendment attached thereto, **HB 256**, **HB 271** with Committee Amendment attached thereto, **HB 281**, and **HB 282** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 160, AN ACT relating to custodial interference.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.070 is amended to read as follows:

(1) A person is guilty of custodial interference when, knowing that he has no legal right to do so, he takes, entices or keeps from lawful custody any incompetent or other person entrusted by authority of law to the custody of another person or to an institution.

(2) It is a defense to custodial interference that the person taken from lawful custody was returned by the defendant voluntarily and before arrest or the issuance of a warrant for arrest.

(3) Custodial interference is a Class D felony unless the person taken from lawful custody is returned voluntarily by the defendant [or unless the defendant is a relative of the victim in which case it is a Class A misdemeanor].

The Committee Substitute to **HB 160** is as follows:

HB 160, AN ACT relating to the extradition of persons charged with custodial interference.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 440 IS CREATED TO READ AS FOLLOWS:

(1) The county attorney shall present to the governor a written application prepared in accordance with KRS 440.370 for the return from any other state of any person charged with a violation of KRS 509.070.

(2) Upon receipt of the county attorney's application, the governor shall immediately demand from the executive authority of any other state the return of any person charged with a violation of KRS 509.070.

HB 185, AN ACT relating to carrying concealed weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:
(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.
(2) *Commonwealth attorneys, county attorneys, and* peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
(3) Policemen directly employed by state, county, city or urban county governments may carry concealed deadly weapons on or about their persons at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
(4) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

The Committee Amendment to **HB 185** is as follows:

Amend printed copy of **HB 185,** page 1, line 6, by deleting the following: "*Commonwealth attorneys, county attorneys, and*";

And on line 13, by inserting after the "." the following: "*In the event commonwealth attorneys or county attorneys assist police in a raid, they may carry concealed weapons on or about their person.*"

HB 256, AN ACT relating to the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 446 IS CREATED TO READ AS FOLLOWS:
All bills introduced in the General Assembly after the effective date of this Act shall be written in nontechnical language and in a clear and coherent manner using words with common and every day meanings.

HB 271, AN ACT relating to shoplifting suspects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 433.236 is amended to read as follows:
(1) A peace officer, security agent of a mercantile establishment, merchant or merchant's employe who has probable cause for believing that goods held for sale by the merchant have been unlawfully taken by a person [, and that he can recover same by taking the person into custody,] may [, for the purpose of attempting to effect recovery,] take the person into custody and detain him in a reasonable manner for a reasonable length of time, *on or off the premises of the mercantile establishment, for any or all of the following purposes:*
(a) To request identification;
(b) To verify such identification;
(c) To make reasonable inquiry as to whether such person has in his possession unpurchased merchandise, and to make reasonable investigation of the ownership of such merchandise;
(d) To recover or attempt to recover goods taken from the mercantile establishment by such person, or by others accompanying him;
(e) To inform a peace officer or law enforcement agency of the detention of the person and to surrender the person to the custody of a peace officer, and in the case of a minor, to inform the parents, guardian, or other person having custody of that minor of his detention, in addition to surrendering the minor to the custody of a peace officer .

(2) The recovery of goods taken from the mercantile establishment by the person detained or by others shall not limit the right of the persons named in subsection (1) of this section to detain such person for peace officers or otherwise accomplish the purposes of subsection (1).

(3) [(2)] Any peace officer may arrest without warrant any person he has probable cause for believing has committed larceny in retail or wholesale establishments.

The Committee Amendment to **HB 271** is as follows:

Amend printed copy of **HB 271**, page 1, line 11, by deleting "or off the premises of the mercantile establishment," and by adding in lieu thereof the following: "the premises of the mercantile establishment or off the premises of the mercantile establishment, if the persons enumerated in this section are in fresh pursuit,".

HB 281, AN ACT relating to probation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.550 is amended to read as follows:

(1) If any district court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that such defendant be under the supervision of the bureau of corrections.

(2) In counties containing an urban county form of government, the urban county council shall provide for supervision of a person placed on probation or work release by the district court of said county following a conviction of crime, either upon a verdict or plea, under the supervision of an adult misdemeanant probation and work release agency of the urban county government. The employes of said agency shall be appointed by the mayor of the urban county government and shall serve at his pleasure but shall be subject to the direction and control of the judges of the district court in the performance of their duties. There shall be such number of employes of said agency, including clerical personnel, as is reasonably necessary for the operation of said agency, and they shall receive reasonable salaries to be fixed by the urban county council which salaries shall be paid out of the urban county treasury.

HB 282, AN ACT relating to juvenile probation officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.320 is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge/executive [, or in counties containing an urban-county government, the mayor,] may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive. The officers shall be peace officers, with all the powers of the sheriff in making arrests and carrying out the purposes of this chapter. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his or her probation, and detain such child for appropriate action by the court.

(2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile division of the district court and such number of assistant probation officers, professional and clerical personnel as are reasonably necessary for the operation of the juvenile division of the district court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers, with all the powers of the sheriff in making arrests and carrying out the purposes of this chapter. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his or her probation, and detain such child for appropriate action by the court.

(3) [(2)] In any county, the district court may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers of the juvenile court. Such officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court *or the urban-county council,*

as appropriate, may authorize the payment of compensation and reasonable expenses out of the county *or urban-county* treasury of any such officers. Representatives of the department for human resources may be appointed or designated as such volunteer probation officers, but without compensation from county funds.

(4) [(3)] A child welfare worker may be, upon the recommendation of the secretary for human resources, appointed by the governor to act as a peace officer in carrying out the purpose of this chapter and KRS chapter 199. If the department deems it necessary, it may appoint a child welfare worker to cooperate with the court.

The Committee on Judiciary-Courts reported **HB 46** with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, and **HB 69** with Committee Amendments No. 1 and No. 2 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 46, AN ACT relating to the handling of monies by the Court of Justice and related public officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

All monies which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt.

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court.

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the state treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

(1) The bank accounts of the circuit clerk authorized by Section 1 of this Act shall accrue interest at such rate per annum upon the average daily deposit on hand at the close of banking hours as may be agreed upon by the bank and the chief justice or his designee. Interest accrued shall not be at a rate less than the interest paid on similar accounts of the Commonwealth in that bank.

(2) Interest shall accrue to the state and be paid to the state treasury by the circuit clerk every six (6) months in the same manner as other monies due the state.

(3) For services rendered by the depositories there shall be no charges made of any character or description.

(4) The accounts shall be subject to the provisions of KRS 41.240.

SECTION 3. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

The Supreme Court shall issue rules relating to the receipt, handling, deposit, and disbursal of monies by the circuit clerk.

Section 4. KRS 23A.200 is amended to read as follows:

(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70). *The filing fee shall be paid to the clerk at the time the case is filed.*

(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
(d) Preparing an attestation	.50
(e) Issuing orders of attachment; garnishment; *executions;* writ of possession after judgment	10.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) Jury fees shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed.

(a) [(f)] For a jury of more than six (6) persons [(to be assessed as cost)]	25.00
(b) [(g)] For a jury of six (6) persons [(to be assessed as cost)]	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request.

(a) [(h)] Service of process (per process)	3.00
(b) [(i)] Mileage for service of process (per mile)	.14

(6) [(3)] The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice *prior to the publication of the notice.*

(7) [(4)] The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

(8) [(5)] The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 5. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the circuit court shall be fifty dollars ($50).

(2) *Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.*

(3) Additional *fees* [costs] shall be *charged* [assessed] in circuit court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

[(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.]

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

Section 6. KRS 23A.210 is amended to read as follows:

(1) The fee for filing an appeal from a district court civil matter in the circuit court shall be forty-five dollars ($45). This fee shall be in lieu of the filing fee required by subsection (1) of KRS 23A.200 *and shall be paid to the clerk at the time of the filing.*

(2) In the case of a counterclaim or cross claim that exceeds the jurisdiction amount of district court requiring transfer to circuit court, an additional fee of forty-five dollars ($45) shall be paid by the party filing the counterclaims or cross claims. This fee shall be in lieu of the filing fee required by subsection (1) of KRS 23A.200 *and shall be paid to the clerk at the time of the filing.*

(3) In the case of a counterclaim or cross claim that exceeds the jurisdictional amount for which the lessened fee provided for by subsection (1)(a) of KRS 24A.170 but which is not greater than the jurisdiction of district court an additional fee of fifteen dollars ($15) shall be paid by the party filing such counterclaims or cross claims *and shall be paid to the clerk at the time of the filing.*

Section 7. KRS 23A.215 is amended to read as follows:

(1) The circuit court filing fee authorized by subsection (1) of KRS 23A.200 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(2) Additional *fees* [costs] in circuit court civil cases authorized by subsections (2)(a), (b), (c), (d), [and] (e), *(4)(a), and (b)* and *(8)* [(5)] of KRS 23A.200 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(3) [Additional costs in circuit court civil cases authorized by subsections (2)(h) and (i) of KRS 23A.200 shall be paid to the sheriff or other officer serving the process.

(4) Costs authorized by subsection (3) of KRS 23A.200 shall be paid to the circuit clerk.

(5)] The *fees* [appeal fee] authorized by KRS 23A.210 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(4) [(6)] Costs and additional costs authorized by KRS 23A.205 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(5) [(7)] Filing fees in civil actions shall be recoverable as costs.

Section 8. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be *paid to the clerk at the time the case is filed and shall be* twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves a matter relating to guardianship, the fee shall be ten dollars ($10).

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(2) Additional *fees* [costs] shall be *charged* [assessed] in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing an attestation	.50
(c) Preparing a certification	1.00
(d) Providing a copy of a document (per page)	.25
(e) Issuing orders of attachment; garnishment; writ *of* [or] possession after judgment	10.00

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed.

(a) [(f)] For a jury of six (6) persons [(to be assessed as cost)]	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request.

(a) [(g)] Service of process (per process)	3.00
(b) [(h)] Mileage for service of process (per mile)	.14

(6) [(3)] The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice *prior to the publication of the notice.*

(7) [(4)] The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

The Committee Substitute to **HB 46** is as follows:

HB 46, AN ACT relating to the handling of monies by the Court of Justice and related public officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:

All monies which are deposited with the clerk and which are payable to a third person, not the Commonwealth, or which may become payable to such third person as a result of court action or otherwise shall be:

(1) Logged in the appropriate record of the clerk and the person paying or depositing the money shall be given a receipt.

(2) Deposited daily in a bank approved as a state depository bank in a special escrow account or accounts subject to the clerk's withdrawal as required in the daily course of the clerk's business or as may be ordered by a court.

(3) Not subject to the provisions of KRS Chapter 41 relating to the deposit of money in the state treasury until by action of a court, such as forfeiture of a bond, the money is due and owing to the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
(1) The bank accounts of the circuit clerk authorized by Section 1 of this Act shall accrue interest at such rate per annum upon the average daily deposit on hand at the close of banking hours as may be agreed upon by the bank and the chief justice or his designee. Interest accrued shall not be at a rate less than the interest paid on similar accounts of the Commonwealth in that bank.
(2) Interest shall accrue to the state and be paid to the state treasury by the circuit clerk every six (6) months in the same manner as other monies due the state.
(3) For services rendered by the depositories there shall be no charges made of any character or description.
(4) The accounts shall be subject to the provisions of KRS 41.240.

SECTION 3. A NEW SECTION OF KRS CHAPTER 30A IS CREATED TO READ AS FOLLOWS:
The Supreme Court shall issue rules relating to the receipt, handling, deposit, and disbursal of monies by the circuit clerk.

Section 4. KRS 23A.200 is amended to read as follows:
(1) The filing fee for a civil case in circuit court shall be seventy dollars ($70). *The filing fee shall be paid to the clerk at the time the case is filed.*
(2) Additional fees shall be charged in circuit court civil cases as follows:

(a) Filing a third-party complaint	$10.00
(b) Preparing a certification	1.00
(c) Providing a copy of a document (per page)	.25
[(d) Preparing an attestation	.50]
(d) [(e)] Issuing orders of attachment; *executions;* [garnishment;] writ of possession after judgment	10.00
(e) Issuing garnishments	*2.00*

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.
(4) Jury fees shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

(a) [(f)] For a jury of more than six (6) persons [(to be assessed as cost)]	25.00
(b) [(g)] For a jury of six (6) persons [(to be assessed as cost)]	12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request as follows:

(a) [(h)] Service of process (per process)	3.00
(b) [(i)] Mileage for service of process (per mile) *shall be paid at the prevailing rate applicable for state employes*	[.14]

(6) [(3)] The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice *prior to the publication of the notice.*
(7) [(4)] The costs of an original deposition including appearance fees and mileage shall be assessed as costs.
(8) [(5)] The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

Section 5. KRS 23A.205 is amended to read as follows:
(1) Court costs for a criminal case in the circuit court shall be fifty dollars ($50).
(2) *Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.*

(3) Additional *fees* [costs] shall be *charged* [assessed] in circuit court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	*.15* [.25]

[(3) Taxation of costs against a defendant, upon conviction, shall be mandatory and shall not be probated or suspended.]

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

Section 6. KRS 23A.210 is amended to read as follows:

(1) The fee for filing an appeal from a district court civil matter in the circuit court shall be forty-five dollars ($45). This fee shall be in lieu of the filing fee required by subsection (1) of KRS 23A.200 *and shall be paid to the clerk at the time of the filing.*

(2) In the case of a counterclaim or cross claim that exceeds the jurisdiction amount of district court requiring transfer to circuit court, an additional fee of forty-five dollars ($45) shall be paid by the party filing the counterclaims or cross claims. This fee shall be in lieu of the filing fee required by subsection (1) of KRS 23A.200 *and shall be paid to the clerk at the time of the filing.*

(3) In the case of a counterclaim or cross claim that exceeds the jurisdictional amount for which the lessened fee provided for by subsection (1)(a) of KRS 24A.170 but which is not greater than the jurisdiction of district court an additional fee of fifteen dollars ($15) shall be paid by the party filing such counterclaims or cross claims *and shall be paid to the clerk at the time of the filing.*

Section 7. KRS 23A.215 is amended to read as follows:

(1) The circuit court filing fee authorized by subsection (1) of KRS 23A.200 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(2) Additional *fees* [costs] in circuit court civil cases authorized by subsections (2)(a), (b), (c), (d), [and] (e), *(4)(a), and (b)* and *(8)* [(5)] of KRS 23A.200 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(3) [Additional costs in circuit court civil cases authorized by subsections (2)(h) and (i) of KRS 23A.200 shall be paid to the sheriff or other officer serving the process.

(4) Costs authorized by subsection (3) of KRS 23A.200 shall be paid to the circuit clerk.

(5)] The *fees* [appeal fee] authorized by KRS 23A.210 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(4) [(6)] Costs and additional costs authorized by KRS 23A.205 shall be placed in the general fund of the state treasury and may be appropriated as provided by law.

(5) [(7)] Filing fees in civil actions shall be recoverable as costs.

Section 8. KRS 24A.170 is amended to read as follows:

(1) The filing fee for a civil case in district court shall be *paid to the clerk at the time the case is filed and shall be* twenty-five dollars ($25), except as provided below:

(a) Where the amount in controversy is five hundred dollars ($500) or less, the fee shall be ten dollars ($10).

(b) Where the case involves the probate of an estate, the fee shall be ten dollars ($10).

(c) Where the case involves a matter relating to guardianship, the fee shall be ten dollars ($10).

(d) Where the matter involves a name change for a natural person, the fee shall be ten dollars ($10).

(e) Where the case involves a paternity determination under KRS Chapter 406, the fee shall be ten dollars ($10).

(2) Additional *fees* [costs] shall be *charged* [assessed] in district court civil cases as follows:

(a) Filing a third-party complaint	$10.00
[(b) Preparing an attestation	.50]
(b) [(c)] Preparing a certification	1.00
(c) [(d)] Providing a copy of a document (per page)	*.15* [.25]
(d) [(e)] Issuing orders of attachment; *executions;* [garnishment;] writ *of* [or] possession after judgment	10.00

(e) Issuing garnishments *2.00*

(3) The additional fees required by subsection (2) of this section shall be paid to the clerk at the time the service is requested.

(4) The jury fee shall be assessed as costs and shall be paid to the clerk by the party against whom the costs have been assessed as follows:

(a) [(f)] For a jury of six (6) persons [(to be assessed as cost)] 12.50

(5) The following fees shall be paid directly to the sheriff or other officer serving the process by the party requesting the service, at the time of the request:

(a) [(g)] Service of process (per process) 3.00

(b) [(h)] Mileage for service of process (per mile) *shall be paid at the prevailing rate applicable for state employes* [.14]

(6) [(3)] The cost incurred by the clerk in publishing a notice shall be paid by the party requesting the notice *prior to the publication of the notice.*

(7) [(4)] The court, in its discretion, may provide for the payment of additional costs in cases requiring extraordinary services.

(8) The costs of an original deposition including appearance fees and mileage shall be assessed as costs.

The Committee Amendment to the Committee Substitute to **HB 46** is as follows:

Amend printed copy of Committee Substitute for **HB 46,** page 3, line 19, to delete "shall" and to insert in lieu thereof "may", and on page 3, line 20, to delete "mandatory and shall not be", and, following the word "suspended" to add "at the discretion of the court".

HB 69, AN ACT relating to uniform citations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.015 is amended to read as follows:

(1) A peace officer may issue a citation instead of making an arrest for a misdemeanor *or violation* committed in his presence, if there are reasonable grounds to believe that the person being cited will appear to answer the charge. The citation shall provide that the defendant shall appear within a designated time.

(2) If the defendant fails to appear in response to the citation, or if there are reasonable grounds to believe that he will not appear, a complaint may be made before a judge and a warrant shall issue.

(3) When a physical arrest is made and a citation is issued in relation to the same offense the officer shall mark on the citation, in the place specified for court appearance date, the word "ARRESTED" in lieu of the date of court appearance.

Section 2. KRS 431.450 is amended to read as follows:

(1) The bureau of state police in consultation with the department of transportation shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform [traffic] citation.

(2) The citation shall:

(a) Be approved by the Supreme Court;

(b) Consist of an original document and four (4) copies;

(c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and

(d) Contain such other information as may be required by the Supreme Court.

(3) The circuit court clerk shall maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the Supreme Court to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.

(4) All peace officers in the Commonwealth shall use the uniform [traffic] citation for all violations of the traffic laws *and for such misdemeanors and violations as are listed in Section 3 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 186.020, 186.050, 186.070, 186.190, 186.210, 187.320, 189.020, 189.025, 189.030, 189.040, 189.045,

189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.645, 189.820, and 189.940(5).

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 4. KRS 431.455 is amended to read as follows:

(1) No peace officer or other person shall invalidate, or attempt to invalidate, destroy or attempt to destroy a record copy of a uniform [traffic] citation which has been lawfully issued.

(2) No peace officer or other person to whom uniform [traffic] citations are distributed, prior to issuance to a violator, shall fail to properly account for uniform [traffic] citations issued to him or to his agency as required by KRS 431.450 and the regulations issued thereunder.

(3) No person required to file reports pursuant to KRS 431.450 and the regulations issued thereunder shall fail to file the reports within the time limits specified.

(4) Any peace officer or other person who violates the provisions of this section shall be guilty of a Class B misdemeanor.

SECTION 5. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.

(2) An offense which is designated as subject to prepayment is subject to the following conditions:

(a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;

(b) Designation as subject to prepayment does not preclude a requirement that the defendant make a court appearance when so indicated on a uniform citation when such is required by a peace officer pursuant to this Act;

(c) For any offense designated as subject to prepayment the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to this Act;

(d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.

(3) When a peace officer issues a uniform citation and no physical arrest is made he shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE" unless in his opinion because of the circumstances surrounding the offense:

(a) The commission of the offense created a substantial harm or threat of harm to lives or property; or

(b) The commission of the offense was, due to the nature of the circumstances, particularly aggravated or flagrant; or

(c) The defendant was known by the officer to have been convicted of the particular violation on a previous occasion or occasions.

(4) In the event the peace officer determines, pursuant to subsection (3) of this section, that the defendant should appear in court the officer shall mark the citation in such manner as to require court appearance on the appropriate date.

Section 6. Whereas uniform traffic citations are already being issued and the provisions of this Act are necessary to expand the benefits of this program to include various other misdemeanor and violation offenses, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 69** is as follows:

Amend printed copy of **HB 69**, page 2, line 24, following "KRS" add the following: "150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, 150.993".

The Committee Amendment No. 2 to **HB 69** is as follows:

Amend printed copy of **HB 69,** page 2, line 25, by deleting after 186.190, "186.210", and on page 3, line 12, by inserting after 186.200, "186.210".

The Committee on Health and Welfare reported **HB 17, HB 18** with Committee Amendment attached thereto, **HB 122** with Committee Amendment attached thereto, **HB 159** with Committee Amendment attached thereto, **HB 132,** and **HB 140** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 17, AN ACT relating to medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the department for human resources undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof. *However, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth.* The selection of *another* [the] class or *other* classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, dental and optometric services;

(e) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one of the functions of the council to make recommendations to the department for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions.

(5) Nothing in this section shall require that any payment be made for optometric services or ophthalmic supplies.

HB 18, AN ACT relating to mandatory physical examinations for foster children and children in temporary placement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

Any child placed in a foster family home by an agency duly authorized in KRS Chapter 199 to place a child in a foster family home shall receive a complete medical examination by a professional authorized by the Kentucky Revised Statutes to conduct a medical examination. Any child placed in a foster family home shall receive medical examinations prior to being placed in a foster family home and not less than every twelve (12) months thereafter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 208 IS CREATED TO READ AS FOLLOWS:

When the court issues a temporary order for the custody of a child pursuant to the provisions of KRS 208.020(7), the court shall cause a child to receive a thorough medical examination, prior to, and at least every year after temporary placement, by a professional authorized by the Kentucky Revised Statutes to conduct medical examinations.

Section 3. KRS 199.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 199.350 shall be imprisoned in the county jail not less than ten (10) nor more than sixty (60) days, or fined not less than twenty-five ($25.00) nor more than two hundred dollars ($200), or both.

(2) Any person who upon thirty (30) days' notice fails to remove a child from the state when required to do so under a bond as provided in paragraphs (c) or (d) of subsection (2) of KRS 199.350 shall forfeit one thousand dollars ($1,000), to be recovered upon the bond by a suit in the name of the county in which the bond is filed.

(3) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(4) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590, or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than $500 nor more than $2,000 or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(5) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than $20.00 nor more than $200 or imprisoned for not more than thirty (30) days, or both.

(6) Any person who violates any of the provisions of KRS 199.896 shall be fined not less than twenty dollars ($20.00) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(7) Anyone knowingly and willfully violating the provisions of subsection (2) of KRS 199.335 shall be guilty of a Class B misdemeanor as designated in KRS 532.090.

(8) Any person who willfully permits, assists, or encourages the unauthorized release of any information made pursuant to KRS 199.335, or otherwise violates the provisions of subsection (9) of KRS 199.335 shall be guilty of a Class B misdemeanor as designated in KRS 532.090.

(9) Any person who willfully violates the provisions of Section 1 or 2 of this Act shall be imprisoned in the county jail for a period not to exceed six (6) months or fined not more than five hundred dollars ($500), or both.

The Committee Amendment to **HB 18** is as follows:

Amend printed copy of **HB 18,** page 1, by deleting the word "physical" from the title;

And on page 1, line 6, by inserting after the word "medical" the following words: ", visual, and dental";

And on line 7, by deleting the words "a medical" and inserting in lieu thereof the word "such";

And on lines 7-8, by inserting an "s" at the end of the word "examination";

And on line 9, by deleting the word "medical" and inserting in lieu thereof the word "such";

And by deleting the words "prior to" and inserting in lieu thereof the words "within two (2) weeks of";

And on line 17, by inserting after the word "medical" the following words: ", visual, and dental";

And by deleting the words "prior to" and inserting in lieu thereof the words "within two (2) weeks";

And on line 20, by deleting the word "medical" and inserting in lieu thereof the word "such".

HB 122, AN ACT relating to juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.510 is amended to read as follows:

(1) Any child committed to the department who is placed on supervised placement from a residential treatment facility by the department and who violates the terms or conditions of supervised placement may be apprehended and returned to active custody of the department by any probation officer of the department or by any peace officer on direction of the department.

(2) Such child may be taken into custody and detained in one of the department's residential treatment facilities prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the commissioner within forty-eight (48) hours of such detention to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (3).

(3) Whether or not the child is returned to the department's active custody pending a hearing, before readmitting the child to a residential treatment program pursuant to this section, except as provided in subsection (2), an administrative hearing shall be held within seven (7) days of the request to readmit the child to a residential treatment program unless the child and his representative request or agree to a longer period of time. The hearing shall be held by a three-member board [provided that an administrative hearing has been held by persons] designated by the department to hear such matters at which time the child and parents shall be given an opportunity to be heard and be represented by counsel.

Section 2. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday *or of any person who at the time of committing a public offense was under the age of eighteen (18) years*:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;
(b) If the child is a female, in peddling or in any wandering occupation;
(c) In any indecent or immoral occupation or practice;
(d) In the exhibition of any such child when insane, or idiotic; or
(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

(8) Actions brought under subsection (1)(a) of this section shall be considered to be delinquency actions.

(9) Actions brought under subsection (1)(b) and (c) of this section shall be considered to be status actions.

(10) Actions brought under subsection (1)(d) of this section shall be considered to be dependency actions.

The Committee Amendment to **HB 122** is as follows:

Amend printed copy of **HB 122,** page 1, line 14, by adding the following words after the word "*commissioner*": "*of the bureau for social services*"

HB 159, AN ACT relating to vital statistics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.190 is amended to read as follows:

(1) The department for human resources shall, upon request, furnish any applicant a certified copy of the record of any birth, death, or other record registered with such department as provided by law when the department is satisfied that the applicant has a direct, tangible and legitimate interest in the information or record requested. The applicant shall pay a reasonable fee set by regulation promulgated by the secretary for human resources [which shall not exceed two dollars ($2.00)] for a copy of a birth, death, or other certificate or search of the files, if no copy is found. Any such certified copy shall be prima facie evidence of the facts therein stated.

(2) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay or other allowances of any person who has at any time served as a member of the army, navy, marine corps or air force of the United States.

The Committee Amendment to **HB 159** is as follows:

Amend printed copy of **HB 159,** page 1, line 9, by placing " [ ]" around the word "reasonable";

And on line 10, by inserting the following words after the word "fee": "*which shall not exceed the actual cost as*";

And on line 11, by deleting the bracket " [" in front of the word "which" and by inserting the bracket " [" after the word "shall" and by adding after the word "shall" the following words: "*be set at the maximum of four dollars ($4.00) and any increase above the present two dollar ($2.00) fee be approved by the Administrative Regulation Review Subcommittee*".

HB 132, AN ACT relating to juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.020 is amended to read as follows:

(1) The juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living, or found within the county who has not reached his eighteenth birthday:

(a) Who has committed a public offense, except a moving motor vehicle offense, involving a child sixteen (16) years of age or older. The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders sixteen (16) years of age or older accused of moving motor vehicle offenses shall be treated as any adult offender; provided, however, that the term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony; or

(b) Who does not subject himself to the reasonable control of his parents, teacher, guardian or custodian, by reason of being wayward or habitually disobedient; or

(c) Who is an habitual truant from home or from school; or

(d) Who is found by the court to be dependent, neglected, or abused.

(2) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(3) The court of each county shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070.

(4) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall willfully and unnecessarily expose to the inclemency of the weather, or in any other manner willfully injure in health or limb any child actually or apparently under the age of sixteen (16) years.

(5) The juvenile session of district court shall have exclusive jurisdiction of persons who and no person shall for gain or reward employ or cause to be employed, or exhibit, use, or have in his custody for the purpose of exhibiting, or employing, any child actually or apparently under the age of sixteen (16) years, nor shall any person having the care, custody, or control of such child, in any way procure, or consent for gain or reward, to the employment or exhibition of such child, either:

(a) In begging or receiving alms, or in any mendicant occupation;

(b) If the child is a female, in peddling or in any wandering occupation;

(c) In any indecent or immoral occupation or practice;

(d) In the exhibition of any such child when *mentally ill or mentally retarded* [insane, or idiotic]; or

(e) In any practice or exhibition of unusual danger to life, limb, health or morals of the child.

(6) Any person, over whom the court has jurisdiction under subsections (3), (4) or (5) of this section, shall be entitled to a trial by jury.

(7) Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; *except that decisions made pursuant to KRS 208.200 are final unless appealed;* nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The juvenile session of district court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for its custody, pending the outcome of proceedings in circuit court to determine its permanent custody. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court, awarding custody of such child, all prior orders of the juvenile court in conflict therewith shall be deemed canceled.

(8) Actions brought under subsection (1)(a) of this section shall be considered to be delinquency actions.

(9) Actions brought under subsection (1)(b) and (c) of this section shall be considered to be status actions.

(10) Actions brought under subsection (1)(d) of this section shall be considered to be dependency actions.

Section 2. KRS 208.200 is amended to read as follows:

(1) If in its decree the juvenile court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation or supervision shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation and supervision methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation or supervision shall remain subject to the jurisdiction of the juvenile court until he becomes *twenty-one (21)* [eighteen (18)] years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship [of the department or] of a private institution or public agency *other than the department* authorized to care for such children, or *under the guardianship* [place the child under the custody and the supervision] of a suitable person. All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Such commitment [or placement] shall be until the age of *twenty-one (21)* [eighteen (18)] subject to the power of the court to [terminate the order and] discharge the child prior thereto, [.] *or of* the governing authorities of said [department,] agency or institution *to do so upon notice to the court at least thirty (30) days prior to said discharge and provided the court does not lodge objections to the contrary* [may likewise discharge the child unless the court directs otherwise]. Prior to said discharge two weeks' notice must be given to the committing court [, to the legal representative of the child and to the county attorney of the county in which committing court presides. During the period of commitment or placement, the court may review a dispositional order and may modify or terminate such order as the court deems essential to the best interests of the child]. In committing a child to a private institution or agency the court shall select one that is approved by the department for human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

(c) Commit the child to the department. Such commitment shall be for an indeterminate period not to exceed the age of twenty-one (21). All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Prior to discharge of the child, the department shall give notice to the committing court, after which time the child shall be so discharged unless the court lodges objections to the contrary.

(d) In the case of a child committed to the department, pursuant to KRS 208.020(1)(d), the juvenile court may set aside an order at any time for procedural reasons. The juvenile court may review a commitment obtained pursuant to KRS 208.020(1)(d) and hold an evidentiary hearing provided: a period of six (6) months has elapsed from the date of commitment; a motion for review is filed by the parents of the child or the guardian or custodian of the child at the time of the commitment; and the department has been given notice at least fourteen (14) days prior to the hearing. If at the evidentiary hearing, the court finds that there is a substantial change in the material circumstances of the parents, custodian or guardian, the court may set aside the order committing the child to the department and may otherwise dispose of the child consistent with this Act.

(2) If, in its decree, the juvenile court finds that the child comes within the purview of subsection (1) or (2) of KRS 208.020, the court may dispose of the child as provided in subsection (1) of this section except that if a child comes within the purview of KRS 208.020(1)(d), the court may not commit the child to the department unless the department has indicated to the court that it has facilities and funds available to care for the child and is willing to accept the commitment.

(3) [(2)] In the event a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment the court shall have exclusive, original jurisdiction of the new offense, *and may modify all previous orders, including that committing the child to the department. Nothing in this section shall limit the jurisdiction of another court in assuming jurisdiction of wards of the department between the ages of eighteen (18) and twenty-one (21) years who have committed another public offense after attaining the age of eighteen (18).*

(4) [(3)] *If* [After] a child *is* [has been] disposed of as provided in paragraph (a) or (b) of subsection (1) of this section *the court may modify or set aside its order at any time, and direct that the child be otherwise disposed of, in accordance with this chapter, except that after a child has been disposed of as provided in paragraph (a) or (b) of subsection (1) of this section* he may not then be transferred to the circuit court as provided for in KRS 208.170.

(5) [(4)] If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

(b) The court may impose a fine for a misdemeanor or violation offense. The imposition of a fine for a misdemeanor or violation offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine.

(c) Fines shall be levied consistent with the schedule set forth below:

For a Class A misdemeanor, not to exceed $150;
For a Class B misdemeanor, not to exceed $75; and
For a violation, not to exceed $50.

When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately.

(6) [(5)] When a child has been ordered to comply with the provisions in subsection *(5)* [(4)] above and fails to do so, the court upon motion of the prosecuting attorney or upon its own motion may require the child to show cause why he should not be held in detention for noncompliance with the court order. The court may issue an order of custody or a summons for his appearance.

(7) [(6)] Following issuance of a show cause order pursuant to subsection *(6)* [(5)] above, unless the child can show that noncompliance was not the result of an intentional refusal to comply with the court order or not the result of a failure to make a good faith effort to comply with the court order, the court may order the child detained as follows:

(a) For a period not to exceed five (5) days if the order is imposed for the commission of a Class A misdemeanor;

(b) For a period not to exceed three (3) days if the order is imposed for the commission of a Class B misdemeanor;

(c) For a period not to exceed two (2) days if the order is imposed for the commission of a violation.

Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational obligations of the child, and shall be in an approved detention facility as provided in KRS 208.130.

(8) [(7)] When in the judgment of the court a disposition stated above in subsection *(5)* [(4)] is inadequate to aid in the rehabilitation of a misdemeanor offender, the court in its discretion may order a child sixteen (16) years of age or older who has been adjudicated delinquent in the commission of an offense classified as a misdemeanor to detention in an approved detention facility as provided in KRS 208.130 based upon the schedule set forth below:

Class A misdemeanor, 1 to 30 days;
Class B misdemeanor, 1 to 15 days;

provided, that, the court shall advise the child prior to entering its order under this subsection that the child upon demand may receive a trial by jury in the regular session of district court, which trial and any appeal therefrom shall be conducted in accordance with the Rules of Criminal Procedure.

The detention of a juvenile misdemeanor offender shall not be scheduled to interfere with the educational obligations of the child. Detention may be scheduled during periods such as weekends, after school, or overnight. Any portion of a day spent in detention shall be deemed as one day for the purposes of serving a detention term.

(9) [(8)] No adjudication by a juvenile court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

Section 3. KRS 208.430 is amended to read as follows:

(1) Any child committed to the department may on the recommendation of the child welfare worker, at any time during the period of his commitment, be:

(a) Discharged from commitment, unless [after notice of discharge the court directs otherwise or] he was committed by a circuit court upon a felony conviction and was given a sentence the period of which will extend beyond the age of twenty-one. Notice of discharge *shall* [must] be given to the committing court *not* *less than thirty (30) days prior to discharge* [and to any other parties as may be required by law];

(b) Placed in the home of his parents, or in a suitable foster home, family home or boarding home, upon such conditions as the department may prescribe and subject to visitation and supervision by a child welfare worker;

(c) Placed in one of the institutions operated by the department; except that no child committed to the department, under provision of KRS 208.020(1)(b), (c), or (d) nor any child 10 years of age or under shall be placed in an institution operated by the department for children committed to the department as delinquents;

(d) Placed in a child-caring institution operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the department may prescribe;

(e) Disposed of as provided in KRS 208.460 or 208.470.

(2) Unless the child has been discharged from commitment, [or the court has specifically ordered otherwise,] any disposition of a child made under this section may at any time during the period of his commitment be changed and other disposition made in accordance with the provisions of this section.

Section 4. KRS 208.540 is amended to read as follows:

(1) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to an institution or facility operated by the department shall be allowed an amount prescribed by regulation adopted by the executive department for finance and administration calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the district court and certified by the circuit clerk to the department, for payment out of funds appropriated for the purpose. [The child's presence shall be necessary at a post-disposition proceeding only as required by court order. Expenses for transportation of a child to such a proceeding from an institution or facility operated by the department shall be paid out of the state treasury.]

(2) Any time that the court reviews a decision after the child has been committed to the department, the expenses, including transportation of the child, if required, shall be borne by the court.

Section 5. KRS 208.205 is repealed.

HB 140, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.140 is amended to read as follows:

(1) No person shall traffic in any controlled substance except as authorized in this chapter.

(2) No person shall possess any controlled substance except as authorized in this chapter.

(3) No person shall dispense, prescribe, *distribute,* or administer any controlled substance except as authorized in this chapter.

(4)(a) No person shall obtain or attempt to obtain a controlled substance, or procure or attempt to procure the administration of a controlled substance by fraud, deceit, misrepresentation, or subterfuge, or by the forgery or alteration of a prescription, or by the concealment of a material fact, or by the use of a false name or the giving of a false address.

(b) No person shall willfully make a false statement regarding any prescription, order, report, or record required by this chapter.

(c) No person shall, for the purpose of obtaining controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.

(d) No person shall make or utter any false or forged prescription.

(e) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.

(5) No person shall possess, manufacture, sell, dispense, prescribe, or administer any counterfeit substance.

(6) No person shall advertise through any media other than a professional or trade publication any controlled substance by either its "trade name" or by its generic or formulary name.

Section 2. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed *or distributed* directly by a practitioner to an ultimate user, no controlled substance in Schedule II may be dispensed *or distributed* without the written prescription of a practitioner. No controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in

Schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed *or distributed* directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed *or distributed* without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The prescription shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. All prescriptions for controlled substances shall be retained for a period of two years.

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 86.**

Banking and Insurance: **HB 36.**

Health and Welfare: **HB 15, HB 305, SB 58.**

Public Utilities and Transportation: **HB 254.**

State Government: **HR 27, HR 28, HR 36, HB 292.**

Judiciary-Statutes: **HB 269, HB 304.**

Appropriations and Revenue: **HB 229** withdrawn from consideration.

Calendar

HB 1, HB 53, HB 212, HB 49, and **SB 51** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion concerning posting of resolutions. Agreed.

Representative B. Richardson moved that the three day posting period be waived in regard to Resolutions concerning the rules of the House. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 103** and **HB 125** had been examined and found correctly enrolled. **HB 103** and **HB 125** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 103 and **HB 125** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications (continued)

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bruce, **HB 332;** Representative Donnermeyer, **HB 110;** Representative Guenthner, **HJR 38;** Representative Kidd, **HB 157;** Representative Plummer, **HB 341, HB 315.**

The Clerk announced Representative DeFalaise filed Floor Amendment No. 2 to **HB 70.**

Orders of the Day

HB 68 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the following Floor Amendment No. 1 to **HB 68:**

Amend printed copy of **HB 68,** page 1, lines 7, 8 and 9, by deleting said lines and substituting in lieu thereof the following:

"authorized by ordinance upon observation of:

(a) Non-moving motor vehicle offenses

(b) Violations of ordinances except for moving motor vehicle offenses and except for offenses which constitute a violation of the Kentucky Penal Code.

(2) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

(3) This section is not a limitation on the power of a citation officer to make an arrest as a private person as provided in KRS 431.005."

Agreed.

Representative LeMaster moved that **HB 68** as amended by passed.

On the roll call the vote was yeas 80-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Craddock, Crupper, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, R. Smith, Stewart, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 13-Adams, Clarke, DeFalaise, DeMarcus, Hurst, Layman, Lindsay, Marcum, Patrick, Pearman, Plummer, F. Smith, Trevey.

HB 68 as amended was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 68** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 16** and **HB 70** be deferred and that they retain their position in Orders of the Day. Agreed.

HCR 26 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the following Floor Amendment No. 1 to **HCR 26:**

Amend printed copy of **HR 26,** page 1, by amending the title to read as follows:

"A RESOLUTION in memory of Coach Adolph Rupp."

and on page 2, by amending the resolving clause to read as follows:

"*Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:*"

and on page 2, line 2, by amending line 2 to read as follows: "does adjourn on Wednesday, February 1, 1978,"

and on page 2, line 3, by deleting the words "they do" on said line, and substituting in lieu thereof the words "it does".

Agreed.

Representative LeMaster moved that **HCR 26** as amended be passed.

On the roll call the vote was yeas 98-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HCR 26 as amended was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HCR 26** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative Kleier moved that the rules be suspended for the purpose of reassigning a bill. Agreed.

Representative Kleier moved that **HB 318** be taken from the Committee on Health and Welfare and reassigned to the Committee on Business Organizations and Professions. Agreed.

The Speaker announced a meeting of the Committee on Rules five minutes after adjournment.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, February 2, 1978.

On the roll call the vote was yeas 56-Adams, Bendl, Bennett, Benson, Beshear, Boswell, Brinkley, Brown, Bruce, Crupper, Davenport, DeFalaise, Dietz, Donnermeyer, Foster, Gay, Haering, Head, Hines, Isler, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, Riner, Robinson, Romines, Siemens, F. Smith, Stewart, Stone, Thomas, Van Horn, Weinberg, Wilborn, Williams, Worthington, Yates. Nays 10-Carpenter, Fitzgerald, Gray, Guenthner, Guy, Hancock, Imes, Priddy, B. Richardson, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 2, 1978

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Dr. Billy G. Hurt, First Baptist Church, Frankfort.

The roll was called. All present except Representative Boatwright.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 1, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 367, by Representatives Blandford and Crupper: AN ACT relating to dairy product marketing.

HB 368, by Representative Gay: AN ACT relating to teacher retirement.

HB 369, by Representatives Holloway and O'Brien: AN ACT changing the classification of the city of Douglass Hills in Jefferson County.

HB 370, by Representatives Crupper, Lindsay, Dietz, Donnermeyer, Foster, Isler, LeMaster, Petty, P. Richardson and Worthington: AN ACT relating to sales and use tax.

HB 371, by Representative Kleier: AN ACT relating to elections.

HB 372, by Representative Carpenter: AN ACT relating to fire protection districts.

HB 373, by Representatives Blandford, Imes and Boswell: AN ACT relating to state personnel.

HB 374, by Representatives Imes, Blandford and Boswell: AN ACT relating to fish and wildlife resources.

HB 375, by Representative B. Richardson: AN ACT relating to Eligible Surplus Lines Insurers.

HB 376, by Representative B. Richardson: AN ACT relating to residential housing.

HB 377, by Representative B. Richardson: AN ACT relating to boating.

HB 378, by Representative B. Richardson: AN ACT relating to the construction and financing by the state of public buildings and improvements in the capital city.

HB 379, by Representatives Riner, Bruce, W. Allen, Bennett, Boatwright, Bosewll, Brinkley, Burnette, Clapp, Davenport, Gay, Gray, Guenthner, Haering, Head,Holbrook, Hurst, Imes, Johnson, Kleier, Layman, Little, McKinney, McNutt, Nett, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, Robinson, Romines, F. Smith, Stewart, Stone, Trevey, Turner, Van Horn, White, Wright, and Yates: AN ACT relating to matter which is harmful for minors.

HR 39, by Representatieves Van Horn and Bennett: A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorably meteorological prognostication.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 345, HB 359.**

Appropriations and Revenue: **HB 349, HB 360.**

Banking and Insurance: **HB 365, HB 366.**

Cities: **HB 354.**

Education: **HB 348, HB 364**

Elections and Constitutional Amendments: **HB 356.**

Health and Welfare: **HB 353, HB 362, HJR 38.**

Judiciary-Statutes: **HB 346, HB 347, HB 355, HB 357.**

Labor and Industry: **HB 351, HB 358, HB 361.**

State Government: **HB 350, HB 352, HB 363, HR 37.**

Report of Committees

The Committee on Agriculture and Natural Resources reported **HB 88** with Committee Amendment attached thereto, **HB 89, HB 114** with Committee Amendment attached thereto, **HB 147, HB 241, HB 245** with Committee Amendment attached thereto, **HB 285, HR 33** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 88, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.293 is amended to read as follows:

(1) [An application for a certificate of inspection shall be submitted by the owner when requested by the department, and the department shall examine applications for a certificate of inspection and cause an on-the-ground inspection to be made of an existing dam. The department shall then,] Within sixty (60) days of *completion of an on-site inspection of an existing dam the department may* [the receipt of the completed application for a certificate of inspection,] either grant *a* [the] certificate *of inspection, or deny the certificate of inspection and notify the owner* [or disapprove the request] in writing, stating the reasons for *denial* [disapproval].

(2) In deciding whether or not a certificate of inspection should be issued, the department shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:

(a) The proposed action *in the judgment of the department* will be conducted in such a way that the safety of the public is adequately provided for;

(b) All information requested by the department has been provided; and

(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.

(3) In granting a certificate of inspection, the department may impose such conditions relating to the inspection, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.

(4) The department may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories.

(5) The department may utilize the results and information provided by or for the United States Army Corps of Engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.

(6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the department and stated on the certificate. In determining the period of inspection, the department may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

(7) The department may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the department of a revised certificate, except when the department finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the department, the new conditions shall be effective immediately.

(8) Specific guidelines for issuance and renewal of certificate of inspection shall be provided by regulations.

(9) Plans and specifications submitted to the department shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the department.

Section 2. KRS 151.297 is amended to read as follows:

(1) Whenever the department determines that any person to which a certificate of inspection has been issued has failed to comply with the conditions in said certificate or whenever the department determines that life or property are or may be endangered by the failure or incapacity of any dam, reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers], or by *any* other *cause* [causes] related to a dam or reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers] irrespective of any *condition* [conditions] or the lack thereof in the certificate of inspection for said dam or reservoir, or in those instances where no certificate is required on levee, embankment, *silt structure* or other water *barrier* [barriers], the department shall order the owner thereof to take such action as is necessary to render the dam, reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers] safe.

(2) When the department determines that the dam, reservoir, levee, embankment, silt structure, or other water barrier has been abandoned; or where the owner fails, in the judgment of the department, to take satisfactory action toward compliance with *an* [such] order, *issued pursuant to this section;* or *where an owner fails* to maintain a satisfactory rate of progress toward full compliance therewith*;* [,] or where in the judgment of the department, the danger to life or property will not permit delay, the department shall *declare that an emergency exists and* [request that a state of emergency be declared by the governor, and upon such declaration,] shall take such action as it deems necessary to render the dam, reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers] safe, which action may include, but is not limited to:

(a) Taking full charge and control of the dam, reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers];

(b) Lowering the water level or emptying the reservoir;

(c) Performing any necessary remedial or protective work at the site; [or]

(d) Taking such other steps as may be necessary to safeguard life and property*; or*

(e) Removing the dam, reservoir, levees, embankment, silt structure or other water barrier.

(3) [(2)] The department may continue such action until the dam, reservoir, levee, embankment, *silt structure* or other water *barrier* [barriers] involved is rendered safe or the emergency requiring the action has ceased. The secretary is authorized to enter into contracts or agreements with other state, local, or federal agencies, or other persons, for work necessary to implement such necessary actions.

(4) [(3)] Any person to whom an order is directed pursuant to this section shall comply therewith immediately, but, on petition to the department, may within five (5) working days have a hearing thereon.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

The department shall have primary responsibility for the safety to the public of all dams, reservoirs, levees, embankments, silt structures or other water barriers owned by the Commonwealth, its agencies, arms and subdivisions. The department may take whatever action that it deems necessary to maintain, repair or remove dams, reservoirs, levees, embankments, silt structures or other water barrier owned, acquired or constructed by the Commonwealth, its agencies, arms and subdivisions.

The Committee Amendment to **HB 88** is as follows:

Page 4, line 7, delete the words "*silt structure*" before the word "or"; and on

Page 4, line 9, after the word "embankment" and before the word "or" delete the words "*silt structure*"; and on

Page 4, lines 13 and 14, after the word "embankment" delete the words "*silt structure*"; and on

Page 4, line 17, before the word "or" delete the words "*silt structure*"; and on

Page 4, line 20, after the word "embankment" and before the word "or" delete the words "*silt structure*"; and on

Page 5, line 6, after the word "embankment" and before "or" delete the words "*silt structure*"; and on

Page 5, line 10, afater the word "embankment" and before the word "or" delete the words "*silt structure*" ; and on

Page 5, line 19, before the word "or" delete the words "*silt structure*"; and on

Page 5, lines 21 and 22, after the word "embankment" delete the words "*silt structure*"; and on

Page 6, line 10, after the word "embankments" and before the word "or" delete the words "*silt structure*" ; and on

Page 6, line 14, after the word "embankments" and before the word "or" delete the words "silt structures".

HB 89, AN ACT relating to Department for Natural Resources

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.081 is amended to read as follows:

(1) Whenever the department has reason to believe that a violation of any of the provisions of this chapter or any rule or regulation promulgated pursuant thereto has occurred it shall issue and serve upon the person complained against a written notice of the provision of this chapter or the rule or regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing before the department at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.071 *or unless the person complained against waives the twenty-one (21) day period.*

(2) Any person not previously heard in connection with the issuance of any order or the making of any determination, including but not limited to the issuance, denial, modification, or revocation of any permit, by which he considers himself aggrieved may file with the department a petition alleging that such order or determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. Unless the department considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the department not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.071 *or unless the person complained against waives the twenty-one (21) day period.* The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or determination complained of, or could reasonably have had such notice.

Section 2. KRS 224.083 is amended to read as follows:

(1) All hearings under this chapter shall be held before a qualified hearing officer, who may be a full-time employe of the department, serve by contract, or be paid on a per diem basis in the discretion of the department. After the [final] conclusion of the hearing, the hearing officer shall *within thirty (30) days* make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. *If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant an extension.* The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file within seven (7) days of receipt exceptions thereto. The secretary shall consider the report and recommended order and pass upon the case. The decision shall be served by mail upon all parties and shall be a final order of the department.

(2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. The record of such hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original except as provided in KRS 224.035.

(3) All hearings conducted pursuant to this chapter shall be open to the public except as provided in KRS 224.035.

HB 114, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.110 is amended to read as follows:

If the department authorizes an operator to defer planting to provide vegetative cover for an area of land, it shall set the time within which such planting shall be carried out. If the operator has carried out on that area of land the method of operation, backfilling, grading and reclamation plans approved by the department other than the planting, the department shall issue to the operator and to his surety a release of his surety bond or other securities held on deposit for each acre of land for which such method of operation, backfilling, grading, and reclamation have been carried out, and the soil ph level required by department regulations has been satisfied less the sum of three hundred dollars ($300) for each acre, but in no case shall the bond be reduced below two thousand dollars ($2,000) except as provided in KRS 350.060. The remaining amount of the bond of three hundred dollars ($300) for each acre of land affected shall remain in the possession of the department until a satisfactory planting plan has been carried out, or until it has been forfeited by the operator. If the remainder is forfeited, it shall be expended by the department in a planting program for the area of land for which it has been posted*; unless the surface rights have been severed from the mineral rights, in which case the remainder of the forfeited bond shall be paid to the surface owner for expenditure in a planting program for the area of land for which the bond has been posted.* If the operator does not meet the planting requirements but does not want his bond forfeited, he may pay to the department a sufficient sum to cover the remaining reclamation costs and the bond filed by him as surety may then be released by the department.

Section 2. KRS 350.130 is amended to read as follows:

(1) If any of the requirements of this chapter or rules or regulations adopted pursuant thereto or the orders of the department have not been complied with within the time limits set by the department or by this chapter, the department shall cause a notice of noncompliance to be served upon the operator, or where found necessary, the secretary shall order the suspension of a permit. Such notice or order shall be handed to the operator in person or served by certified mail, return receipt requested or by registered mail addressed to the permanent address shown on the application for a permit. The notice of noncompliance or order of suspension shall specify in what respects the operator has failed to comply with this chapter or the regulations or orders of the department. If the operator has not reached an agreement with the department or has not complied with the requirements set forth in the notice of noncompliance or order of suspension within time limits set therein, the permit may be revoked by order of the department and the performance bond shall then be forfeited to the department*; except as provided in subsection (2) of this Section and in KRS 350.110.*

(2) When a bond is forfeited pursuant to the provisions of this chapter, the secretary shall give notice to the attorney general, who shall collect the forfeiture. *Bond forfeitures collected in cases where the surface rights have been severed from the mineral rights shall be paid to the surface owner for the purpose of reclaiming in accordance with the provisions of this chapter the same area of land included under the bond.*

(3) An operator whose mining permit has been revoked or suspended shall not be eligible to receive another permit or to have suspended permits reinstated until he shall have complied with all the requirements of this chapter in respect to all permits issued him, provided, further, that no operator shall be eligible to receive another permit who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator has paid such sum as the department finds is adequate to reclaim such lands. The department shall not issue any additional permits to any operator who has repeatedly been in noncompliance or violation of this chapter, or who has had permits revoked on more than three (3) occasions. The department shall issue regulations concerning repeated noncompliance by any operator.

The Committee Amendment to **HB 114** is as follows:

On page 2, line 8 after the word "*posted*" by adding the words:

"*; provided, that no payment shall be made until the planting has been accomplished in the manner required by the Department, to the extent of available forfeited funds, and no payment shall be made beyond the actual cost of planting. Provided, further, that this section shall not apply in cases where the owner does not desire or is unable to accomplish the work in the manner required by the Department.*"; and on

Page 3, line 19 after the word "bond" by adding the following:

"; provided, that no payment shall be made until the reclamation has been accomplished in the manner required by the Department, to the extent of available forfeited funds, and no payment shall be made beyond the actual cost of reclamation. Provided further, that this section shall not apply in cases where the owner does not desire or is unable to accomplish the work in the manner required by the Department."

HB 147, AN ACT relating to watershed conservancy districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.760 is amended to read as follows:

Within the first quarter of each calendar year, the board of directors shall prepare an itemized budget of the funds needed for administration, construction, operation and maintenance of works of improvement. After approval of such budget by the board of supervisors, the board of directors shall, by order or resolution, levy a tax sufficient to meet such budget, not to exceed five mills per dollar of the fair cash value, as equalized by the department of revenue, of all real property within the district, except any levy necessary to provide a sinking fund for retirement of bonds authorized by KRS 262.750 *and except any levy necessary to provide for the improvement, continuing operation, or maintenance of works of improvement within the district authorized by Section 2 of this Act.* A copy of such budget and order or resolution shall be certified to the county clerk of the county or counties involved.

SECTION 2. A NEW SECTION OF KRS 262.745 to 262.750 IS CREATED TO READ AS FOLLOWS:

(1) Upon determination by the board of directors of a watershed conservancy district that the improvement, continuing operation, or maintenance of a watershed project is necessary, the board of directors may adopt a resolution which shall set out: (a) a list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010(6) with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits, and (b) the annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution.

(2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.

(3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposal as to whether it should be undertaken, and the scope thereof, or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the proposal should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).

(4) The board of directors shall prepare official ballots to be used in the election which shall state the question: "Should the assessment for improvement, continuing operation, or maintenance proposed by resolution of the-------watershed conservancy district be adopted?" Squares indicating a yes or no answer should follow the question with a direction to insert an "X" mark in the square favored. Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee ballot. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.

(5) If a majority of those voting upon the proposition favor the assessment the board shall give due notice of the vote. Any owner of property to be benefited by the project may, within forty days after publication of such notice, file an action in the circuit court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney shall represent the board of directors in upholding the validity of the proposed assessment. After the lapse of time specified herein all actions by owners of properties to be benefited shall be forever barred.

(6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall levy annual assessments effective only upon the benefited properties and based on the acreage thereof. The annual assessment shall be made by the board of directors at the same time and in

the same manner as provided in KRS 262.765 for taxes generally and shall be collected as provided in KRS 262.770. The assessments shall constitute liens against the land benefited and shall attach to the land, taking precedence over all other liens except state, county and municipal taxes and prior improvement assessments.

Section 3. KRS 262.750 is amended to read as follows:

(1) Bonds authorized by KRS 262.745 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary tax levy [in excess of the maximum] authorized in KRS 262.760 to establish a sinking fund for the liquidation of bonds as provided in KRS 262.760. Copy of the order or resolution shall be certified to the board of supervisors.

(2) The board of supervisors shall conduct a hearing on such proposal after notice given pursuant to KRS 262.010 (4). If it appears that the proposal is within the scope and purpose of KRS 262.700 to 262.795 and meets all other requirements of the law, the proposal shall be submitted to the landowners of the district by referendum under supervision of the board of supervisors.

(3) Provisions of KRS 262.725, 262.730 and 262.740 as to notice, qualifications of voters, absentee voting and manner of holding referendum election in organizing a watershed conservancy district shall apply to the referendum held under this section.

(4) If two-thirds (2/3) of the landowners voting favor the proposal, subject to the provisions of KRS 66.210, such bonds may be issued.

Section 4. KRS 262.777 is amended to read as follows;

[In the event the income derived by a watershed conservancy district by taxation as provided by KRS 262.745(1) and 262.760 shall prove inadequate to carry out the approved program of the district, or constitutional limitations on indebtedness do not permit the borrowing of funds by the district as authorized by KRS 262.745(4) and 262.750,] A special assessment may be voted and bonds issued which shall be payable solely from the collection of such assessments, as provided in KRS 262.778 and 262.779.

HB 241, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.450 is amended to read as follows:

As used in KRS 138.460 and 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Except as provided in subsection (4) of this section, retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be *sixty* [ninety] percent *(60%)* [(90%)] of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual;

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(4) Notwithstanding the provisions of subsection (3) of this section, provided the tax on gasoline, diesel, other special motor fuels and liquefied petroleum gas is increased as provided for in KRS 138.220(2), 138.565(3), 138.660(2) and 234.320(2), "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the department of revenue, "retail price" shall be the value given in such reference manual;

(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:

Number of Years Removed From Manual	Retail Price
1	75% of value of same make vehicle last appearing in manual
2	50% of value of same make vehicle last appearing in manual
3	25% of value of same make vehicle last appearing in manual
All Others	10% of value of same make vehicle last appearing in manual

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, and new motor vehicles sold by Kentucky licensed dealers, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

HB 245, AN ACT relating to blasting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.315 is amended to read as follows:

(1) No person shall detonate explosives in any blasting operation in which more than five pounds of explosives or the equivalent are used in a single charge or in which less than five pounds of explosives is used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:

(a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster, and;

(b) Has passed an examination, prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.

(2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a fee [of ten dollars]. If the applicant is successful in passing the examination, a license indicating his competency to detonate explosives shall be issued upon the payment of an additional fee of five dollars.

(3) Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination, upon the payment of a fee [of five dollars].

(4) Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee [of five dollars].

(5) All fees provided in this section shall be set by the department by administrative regulation.

(6) The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted adequate opportunity for a hearing.

The Committee Amendment to **HB 245** is as follows:

Page 2, line 17, by deleting the "." and adding the following: "*; provided, however, the fee for an application shall not exceed twenty dollars ($20.00), the fee for license renewal shall not exceed ten dollars ($10.00), and the fee for reciprocal licensing shall not exceed ten dollars ($10.00).*"

HB 285, AN ACT relating to cattle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:
(1) As used in this section unless the context otherwise requires:
(a) "Department" means the department of agriculture.
(b) "Commissioner" means the commissioner of agriculture.
(c) "Purebred" means registered by the appropriate association, organization or authority.
(d) Neither "show" nor "exhibition" nor "show, exhibition and sale" shall include those held as a part of or in connection with any county or other local fair.

(2) The department shall aid, encourage, foster and promote the development and the improvement of the purebred cattle industry in Kentucky. To that end, the department shall promote, aid and assist in the promotion of annual shows and sales of purebred cattle in Kentucky with the object and purpose of establishing Kentucky as one of the greatest centers in the United States for the breeding, producing, raising, exhibition, showing and sale of purebred cattle. The general assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.

(3) From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000) shall be used and applied in each fiscal year in each of the following events: Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen-Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolaise, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, [and] purebred Brown Swiss, *and purebred Limousin* show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the commissioner may determine.

(4) Any show, exhibition and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class is equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all of the states of the United States, and the Dominion of Canada may be included. The commissioner shall determine with respect to each of the breeds of cattle which show, exhibition and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions and sales which have been held in Kentucky in any previous year and in any previous two-year period.

(5) The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows, to-wit: At least five thousand dollars ($5,000) shall be used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the commissioner may determine.

(6) No show or exhibition and no show, exhibition and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section unless and until there is provided and made available from other sources an amount for premiums equal to or in excess of the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition and sale, or unless there is provided and made available from some other source an amount for premiums equal to or in excess of the amount which the commissioner may allocate to or for the show or exhibition or show, exhibition and sale under the authority vested in him by this section.

HR 33, A CONCURRENT RESOLUTION relating to sodium nitrate.

WHEREAS, sodium nitrate is used in the preservation of red meat to keep it free of botulism and safe for human consumption; and

WHEREAS, the U.S. Food and Drug Administration has threatened to ban the use of sodium nitrate and, further, this proposed ban has been endorsed by Assistant Secretary of Agriculture Carol Foreman; and

WHEREAS, such a ban would sharply increase the cost of fresh meat to consumers and would thereby be likely to reduce consumption of fresh meat, which is important to human health and nutrition; and

WHEREAS, the agricultural economy of Kentucky depends on the production and sale of hogs, sheep and cattle as well as the production and sale of grain used in raising cattle, and such economy would suffer if a ban on sodium nitrate were imposed; and

WHEREAS, test results indicate that a one hundred fifty-four-pound man would have to consume the equivalent of 46,000 pounds of bacon daily in order to show any harmful effects from sodium nitrate consumption;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives does hereby urge members of Congress, the President and the Secretary of Agriculture to oppose any ban on the use of sodium nitrate as a fresh meat preservative.

Section 2. That the House of Representatives does further call upon the President to replace immediately Carol Foreman as Assistant Secretary of Agriculture with someone who is more in sympathy with the needs of Kentucky's and the nation's farmers.

Section 3. That the Clerk is hereby directed to forward copies of this resolution to the President, the U.S. Secretary of Agriculture and each member of Kentucky's congressional delegation.

The Committee on Cities reported **HB 43** with Committee Amendment attached thereto, **HB 173,** and **HB 42** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 43, AN ACT relating to the reporting of fire losses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each fire department operating within the Commonwealth, whether paid or volunteer, shall, within thirty (30) days of the date it responds to a fire call, file a report with the commission. The report shall be made on a form to be distributed by the commissioner and shall include but not be limited to the following information:

(a) Date of the fire call;
(b) Time of day of the fire response;
(c) Number of pieces of fire equipment responding to each call;
(d) Number of fire fighters responding to each call; and
(e) Description of the estimated fire damages.

SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall ascertain as soon as practicable the annual fire loss in each municipality in the Commonwealth; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable the commissioner to classify the fire losses in each municipality in the Commonwealth, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates for risks in each municipality in the Commonwealth as provided in this section.

(2) The commissioner shall compile for each municipality in Kentucky a list of the insured fire losses in excess of five hundred dollars ($500) per loss paid in that municipality for the preceding statistical year.

(3) The list shall include:
(a) The names of persons recovering insured losses;
(b) The addresses or locations where the losses occurred; and

(c) The amount paid by the insurance company on each loss.

(4) The commissioner shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year, either directly from such insurance companies or from such lawful rating organization or agency of which such insurance companies may be a member or subscriber.

(5) Each municipality shall examine its list to determine the losses actually occurring in its limits and shall make a report to the commissioner, which report shall include:

(a) A list of the losses that occurred within the limits of the municipality;

(b) A list of the losses not occurring within the municipality; and

(c) Other evidence essential to establishing the losses in the municipality.

(6) The commissioner shall make such changes or corrections as he shall determine to be necessary in order to correct the list of insured fire losses paid in a particular municipality.

The Committee Amendment to **HB 43** is as follows:

On page 1, line 4, by deleting ", within" after the word "shall";

and on page 1, line 5, by deleting line 5 in its entirety;

and on page 1, line 6, by deletingn "file a report with the commission" and inserting in lieu thereof "complete a report each time it responds to a fire call";

and on page 1, line 7, by inserting ",similar to the National Fire Protection Association's standard fire reporting form," after the word "form";

and on page 1, line 8, by inserting a comma after the word "include" and after the words "limited to";

and on page 1, after line 16, by adding:

"(2) Each fire department operating within the Commonwealth, whether paid or volunteer, shall file a monthly summary of the reports required to be completed in subsection (1) of this section with the commission and with the fire marshall's office. Monthly summaries shall be made on a form, similar to the National Fire Protection Association's fire reporting action summary form, to be distributed by the commissioner."

HB 173, AN ACT changing the classification of the City of Villa Hills, in Kenton County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Villa Hills, in Kenton County, is such to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Villa Hills, in Kenton County, is transferred from the fifth class to the fourth class of cities.

HB 42, AN ACT relating to a fire protection classification review and appeal board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a review and appeal board composed of seven (7) members appointed by the governor.

(2) One (1) member shall be appointed from a list of three (3) nominees submitted by the Kentucky municipal league for an initial term of three (3) years. One (1) member shall be appointed from a list of three (3) nominees submitted by the Kentucky association of counties for an initial term of two (2) years. Upon expiration of their initial terms these members, or their successors, shall be appointed for four-year terms but shall not serve more than two (2) four-year terms.

(3) Three (3) of the seven (7) members shall be appointed for one-year terms. The number of terms for these three (3) members shall be unlimited. One (1) member shall be an employe of the department of insurance other than the commissioner of insurance; and two (2) members shall be members of the general assembly.

(4) Two (2) of the seven (7) members shall be the attorney general or his designee and the state fire marshal or his designee.

(5) All appointments to the board shall be made on the first day of July, 1978, or as soon thereafter as may be practicable. For the purpose of setting the initial term of office, the expiration date of all terms shall be July 1.

(6) Each member shall continue in office until a successor has been appointed. Vacancies in the membership shall be filled for the unexpired portion of the term.

SECTION 2. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The review and appeal board shall elect a chairman and a vice chairman. Members shall serve without pay but shall receive reimbursement for actual and necessary expenses.

(2) The review and appeal board shall meet at least four (4) times a year and more frequently at the call of the chairman. A meeting may also be called by the vice chairman in the absence of the chairman. The chairman shall call a meeting upon the written request of a majority of the board members.

(3) The board shall act independently but shall be furnished administrative support services, including meeting facilities and necessary staff, by the executive department for finance and administration.

SECTION 3. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The duties and responsibilities of the review and appeal board shall be to review, approve and serve as a board of appeal acting on the assignment, reassignment or modification of any fire protection classification of any fire protection district, municipality or locality in the state which is made by any lawful rating organization or agency operating in the Commonwealth.

Section 4. KRS 304.13-230 is amended to read as follows:

(1) Every rating organization and every insurer which makes its own rates shall, with a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him, *except as provided in subsection (3) of this section.* If the rating organization or insurer fails to grant or reject such request within thirty (30) days after it is made, the applicant may proceed in the same manner as if his application has been rejected. Any part affected by the action of such rating organization or such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten (10) days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

(3) Matters relating to fire protection classification shall be handled directly by the review and appeal board in accordance with the provisions of Section 3 of this Act.

The Committee Substitute to **HB 42** is as follows:

HB 42, AN ACT relating to a fire protection classification review and appeal board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The insurance regulatory board shall review, approve and serve as a board of appeal acting on the assignment, reassignment or modification of any fire protection classification of any fire protection district, municipality or locality in the state which is made by any lawful rating organization or agency operating in the Commonwealth.

Section 2. KRS 304.13-230 is amended to read as follows:

(1) Every rating organization and every insurer which makes its own rates shall, with a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish

to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him, *except as provided in subsection (3) of this section.* If the rating organization or insurer fails to grant or reject such request within thirty (30) days after it is made, the applicant may proceed in the same manner as if his application has been rejected. Any part affected by the action of such rating organization or such insurer on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten (10) days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action.

(3) Matters relating to fire protection classification shall be handled directly by the insurance regulatory board in accordance with the provisions of Section 1 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any fire protection district, municipality or locality in the state which is assigned a fire protection classification by any lawful rating organization or insurer which makes its own rates, operating in the Commonwealth, may appeal to the insurance regulatory board for modification or reassignment of the classification within thirty (30) days of receipt of the classification. The board shall determine the manner in which an appeal may be filed.

SECTION 4. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The insurance regulatory board shall make such investigation as it deems necessary or convenient for proper determination regarding an appeal.

(2) The books, accounts, papers and records of every fire protection classification rating organization or insurer which makes its own rates, operating in the Commonwealth, shall be available to the board for inspection and examination. By notice and order, the board may require their production or the production of verified copies at such time and place as it designates, any expense incurred to be borne by the rating organization or insurer so ordered.

SECTION 5. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of the filing of an appeal, the insurance regulatory board shall hold a formal hearing with proper notice to all interested persons. Whenever the board determines that a fire protection classification is unreasonable, it shall by final order prescribe a reasonable classification to be followed for a period not to exceed one (1) year. A subsequent evaluation by the rating organization or insurer shall not be permitted until the expiration of the period set by the board.

(2) The board may compel obedience to its final orders by proper proceedings in the Franklin circuit court or any other court of competent jurisdiction, and such proceedings shall have priority over all pending cases.

SECTION 6. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer may increase premiums for fire insurance based on a fire protection classification until the expiration of the thirty (30) days period for appeal by the fire protection district, municipality or locality, as provided in Section 3 of this Act. If an appeal is filed, no insurer may increase such premiums until approval of the fire protection classification by the insurance regulatory board.

(2) If the insurance regulatory board's reassignment or modification of a fire protection classification results in lower fire insurance premiums, the appropriate insurers shall make any refunds of paid premiums due to customers within the affected fire protection district, municipality or locality. Such refunds shall be determined from the date the rating organization or insurer last assigned or reassigned the classification appealed.

The Committee on Elections and Constitutional Amendments reported **HB 137** with Committee Amendment attached thereto, **HB 166,** and **HCR 7** with Committee Amendments attached thereto, **HB 166,** and **HCR 7** with Committee Amendments atached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 137, AN ACT relating to campaign contributions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report.

(2) Each campaign treasurer of a candidate or campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure.

(a) Reports of all candidates and their campaign committee shall be made:

1. On the thirty-second day preceding an election, including all previous contributions and expenditures.
2. On the twelth day preceding the date of the election.
3. Within thirty (30) days after the election.
4. Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. When the net proceeds of a fund raising event exceed the sum of $1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement, and every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures. Subsequent supplemental statements shall be filed quarterly thereafter until the account shows an unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(5) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(6) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

[(7) No candidate as defined in this section, nor any committee which has been organized in whole or in part to further the candidacy of such person, shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person or any other public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty (30) days thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member.]

The Committee Amendment to **HB 137** is as follows:

Page 5, delete brackets [].

Page 5, line 6 after "person" delete by bracketing [or any other public office] and add in lieu thereof, the following: "*for a different public office*".

Page 5, line 21, add after "member" the following: "*except that a candidate, committee or an official may retain such funds to seek re-election to the same office*".

HB 165, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.100 is amended to read as follows:
The provisions of KRS 121.015, 121.100 to 121.200, and 121.990 shall apply to all candidates running for public office, including urban-county governments *and boards of education,* in any primary or general election, or in any special election to fill a vacancy, except those candidates running for federal office, [boards of education,] county and local district offices filled by less than a countywide constituency, *including conservation district offices,* and offices in cities of the third, fourth, fifth and sixth classes. However, the provisions of KRS 121.190 shall apply to all candidates for public office.

The Committee Amendment to **HB 165** is as follows:

Page 1, line 6, after "education" add the following: "*in counties containing a city of the first or second class and urban county governments*".

HB 166, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.075 is amended to read as follows:
(1) Any qualified voter who has not been declared incompetent by a court of competent jurisdiction, and who, on account of age, infirmity or illness, is not able to appear at the polls on election day may vote in the following manner. At least seven (7) days prior to the date of the election, he shall present to the clerk by mail his verified statement that his inability to appear is due to age, infirmity, or illness, and a verified statement of a physician corroborating the voter's statement. *If the physician indicates in the statement that the disability is a permanent condition the voter need not file further statements of disability. For ensuing elections the voter may make reference to the permanent disability statement previously filed when applying for a special ballot. The county clerk shall maintain a file of disability statements of permanently disabled voters. Upon receipt of the verified statement,* the clerk shall immediately mail to the voter a special ballot, and envelopes, and the voter shall cast his vote in the same manner as provided for the absent voter in KRS 117.335.
(2) Special ballots cast by disabled persons shall be tabulated in the same manner as are special ballots cast by absent voters.

HCR 7, A CONCURRENT RESOLUTION requesting the Congress of the United States to call a convention for the purpose of proposing an amendment to the Constitution of the United States protecting the right to life of all human beings during every stage of biological development.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States be, and hereby is, requested to call a convention for the proposing of the following article as an amendment to the Constitution of the United States:

ARTICLE

Section 1. With respect to the right to life, the word person as used in this article and in the Fifth and Fourteenth Articles of Amendment to this Constitution applies to all human beings irrespective of age, health, function, or condition of dependency, including their unborn offspring at every stage of their biological development.

Section 2. No unborn person shall be deprived of life by any person, provided, however, that nothing in this article shall prohibit a law permitting only those medical procedures required to prevent the death of the mother.

Section 3. The Congress and the several states shall have the power to enforce this article by appropriate legislation.

Section 2. That this application by the General Assembly of the Commonwealth of Kentucky constitutes a continuing application, in accordance with Article V of the Constitution of the United States, until at least two-thirds of the legislatures of the several states have made similar applications.

Section 3. That a duly attested copy of this resolution be immediately transmitted by the Clerk of the House of Representatives to the Secretary of the Senate of the United States, the Clerk of the House of Representatives, to each member of Congress from this Commonwealth, and to each house of each state legislature in the United States.

The Committee Amendment No. 1 to **HCR 7** is as follows:

Page 1, line 3, add before the word "proposing", the following: "sole purpose of"; delete after the word "proposing" the word "of".

The Committee Amendment No. 2 to **HCR 7** is as follows:

Page 1, delete the title and insert in lieu thereof, the following: "A Concurrent Resolution requesting the Congress of the United States to call a convention for the sole purose of proposing an amendment to the Constitution of the United States protecting the right to life of all human beings during every stage ofbiological development."

The Committee on State Government reported **HB 180,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on rules.

HB 180, AN ACT relating to holidays.

WHEREAS, the recent inclement weather has made it impossible for the General Assembly to conduct its business in a normal manner, due to the unavoidable absence of many legislators and staff members; and

WHEREAS, Section 42 of the Kentucky Constitution limits the time in which the legislature may meet to 60 days, excluding Sundays and legal holidays; and

WHEREAS, Saturdays are considered as legislative days for purposes of complying with Section 42 even though the House and Senate do not normally meet on Saturdays; and

WHEREAS, immediate action is needed to make up the time lost due to the bad weather without adding to the normal increase in legislative business during the final weeks of the session;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. For purposes of Section 42 of the Kentucky Constitution Saturdays shall be legislative holidays during the remainder of the 1978 regular session.

Section 2. Because the recent weather has upset the General Assembly's normal work schedule, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on State Government reported **HB 150** with Committee Amendment attached thereto, **HB 156** with Committee Substitute attached thereto, **HB 171**, **HB 182**, **HR 27** with Committee Amendment attached thereto, **HR 28,** and **HR 36** with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 150, AN ACT relating to the acquistion, use, control and disposition of property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.463 is amended to read as follows:

The department shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects.

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360.

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the commissioner of the executive department for finance and administration. All such sales or other disposition shall be made in accordance with KRS 45.360.

(4)(a) To control the use of any real property, *other than the new state capitol annex,* owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the department finds the same is not required for the purposes of any particular state agency. *The general assembly and the legislative research commission shall have complete control of the use of the new state capital annex.*

(b) To determine the housing and furnishing needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. The department is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of *the new state capitol annex and of* the third and fourth floors of the new state capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the department deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the department of law and the law library, in the new state capitol, provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol.

(5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the department is unable to agree with the owner thereof on a price for such real estate.

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360.

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550.

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

Section 2. Whereas, the additional and pressing housing needs of the General Assembly must be met immediately in order to conduct the legislative business of the Commonwealth during the 1978 Regular Session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to **HB 150** is as follows:

Page 2, lines 4 and five, by deleting the phrase "*, other than the new state capitol annex,*"; and on

Page 2, line 13, by deleting the words "The general assem-"; and on

Page 2, by deleting lines 14 through 16 in their entirety and inserting in lieu thereof the following:

"*The department shall allocate to the general assembly and the legislative research commission the amount of space within the new state capitol annex, not exceeding a total of fifteen thousand (15,000) square feet, as the general assembly or legislative research commission may request.*"; and on

Page 2, line 20, by inserting after "them." the words "*Subject to paragraph (a) of this subsection,*", and by changing "The" to "the"; and on

Page 2, line 23, by deleting the words "*the new state capitol annex and of*"; and on

Page 3, line 11, by inserting after "capitol" and before the period, ".", the words "*and shall have exclusive use of the space in the new state capitol annex allocated to them under paragraph (a) of this subsection*".

HB 156, AN ACT relating to the Ten Commandments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
A copy of the Ten Commandments, as found in Chapter 20 of the Book of Exodus in the King James version of the Bible shall be displayed on a wall of each courtroom in the Commonwealth. The copy shall be inscribed on white paper with dimensions not less than forty (40) inches wide by sixty (60) inches high, in 72-point type or equivalent size, using black ink.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:
A copy of the Ten Commandments, as found in Chapter 20 of the Book of Exodus in the King James version of the Bible shall be displayed on a wall in each public schoolroom in the Commonwealth. The copy shall be inscribed on white paper with dimensions not less than forty (40) inches wide by sixty (60) inches high, in 72-point type or equivalent size, using black ink.

The Committee Substitute to **HB 156** is as follows:

HB 156, AN ACT relating to the Ten Commandments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:
(1) It shall be the duty of the administrative office of the courts to ensure that a durable, permanent copy of the Ten Commandments, as found in Chapter 20 of the Book of Exodus in the King James version of the Bible shall be displayed on a wall of each courtroom in the Commonwealth. The copy shall be sixteen (16) inches wide by twenty (20) inches high.
(2) In small print below the last commandment shall appear a notation concerning the purpose of the display, as follows: "The secular application of the Ten Commandments is clearly seen in its adoption as the fundamental legal code of Western Civilization and the Common Law of the United States."
(3) The copies required by this Act shall be purchased with funds made available through voluntary contributions made to the state treasurer for the purposes of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:
(1) It shall be the duty of the superintendent of public instruction to ensure that a durable, permanent copy of the Ten Commandments, as found in Chapter 20 of the Book of Exodus in the King James version of the Bible shall be displayed on a wall in each public elementary and secondary schoolroom in the Commonwealth. The copy shall be sixteen (16) inches wide by twenty (20) inches high.

(2) In small print below the last commandment shall appear a notation concerning the purpose of the display, as follows: "The secular application of the Ten Commandments is clearly seen in its adoption as the fundamental legal code of Western Civilization and the Common Law of the United States."

(3) The copies required by this Act shall be purchased with funds made available through voluntary contributions made to the state treasurer for the purposes of this Act.

HB 171, AN ACT relating to emergency preparedness, and making an appropriation therefor.

WHEREAS, the general assembly recognizes that natural and man-made disasters pose a continual threat to all Kentuckians; and

WHEREAS, it is recognized that the citizens of each Kentucky community must initially use their own resources to combat disasters and emergencies; and

WHEREAS, it is recognized that it is in the best interest of the Commonwealth and its citizens to have local disaster preparedness organizations which are able to cope effectively with all emergencies; and

WHEREAS, it is recognized that most Kentucky communities do not possess enough funds to establish viable disaster preparedness and response organizations and in fact do not have viable disaster preparedness and response organization;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

In order to develop and maintain effective local disaster and emergency preparedness programs and concomitant activities, it is declared to be the policy of the Commonwealth of Kentucky to encourage and assist the political subdivisions of the Commonwealth by authorizing, and there is hereby authorized, the expenditure of supplementary state funds for local, regional and multijurisdictional disaster and emergency services organizations which are a part of and affiliated with the division of disaster and emergency services of the department of military affairs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Supplementary state funds appropriated to the division of disaster and emergency services pursuant to this Act shall be allocated by the division to local, regional and multijurisdictional disaster and emergency services organizations on a reimbursement basis in amounts not to exceed fifty percent (50%) of the total local, regional or multijurisdictional monies expended by any such local, regional or multijurisdictional organization in any given year for the institution or support of disaster and emergency preparedness programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The division of disaster and emergency services shall administer the supplementary state funding program herein authorized and shall, by rules and regulations, promulgate and apply eligibility requirements and standards of performance to be achieved by any such local, regional or multijurisdictional organization. The division may promulgate such other rules and regulations as may be necessary to carry out the provisions of this Act.

Section 4. There is hereby appropriated to the division of disaster and emergency services from the general fund of the Commonwealth the sum of two hundred thousand dollars ($200,000) for fiscal year 1978 to 1979, and two hundred thousand dollars ($200,000) for fiscal year 1979 to 1980, for the supplementary state funding program purposes of this Act.

HB 182, AN ACT relating to public projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 58.010 is amended to read as follows:

As used in KRS 58.010 to 58.140, unless the context requires otherwise:

(1) "Public project" means any lands, buildings, or structures, works or facilities (a) suitable for and intended for use as public property for public purposes or suitable for and intended for use in the promotion of the public health, public welfare or the conservation of natural resources, including *medical office buildings contiguous to hospital facilities, and shall also include* the planning of any such lands, buildings, structures, works or facilities; or (b) suitable for and intended for use for the purpose of creating or increasing the public recreational, cultural and related business facilities of a community, including such structures as concert halls,

museums, stadiums, theaters and other public facilities, together with related and appurtenant parking garages, offices and office buildings for rental in whole or in part to private tenants, dwelling units and apartment buildings for rental in whole or in part to private tenants, commercial and retail businesses, stores or other establishments, and any structure or structures or combination of the foregoing, or other structures having as their primary purpose the creation, improvement, revitalization, renewal or modernization of a central business or shopping community, and shall also include existing lands, buildings, structures, works and facilities, as well as improvements or additions to any such lands, buildings, structures, works or facilities.

(2) "Public project" as defined herein shall include projects intended for use as public property for public purposes by another governmental agency, including the United States government, other than the governmental agency acquiring the land or constructing the building, structure or facility.

(3) "Governmental agency" means the Commonwealth of Kentucky as such acting by or through any department, instrumentality or agency thereof, or any county, city, agency or instrumentality or other political subdivision of the Commonwealth, or agency, or instrumentality thereof.

HR 27, A RESOLUTION amending the Rules of the House of Representatives

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Rule 52 of the Rules of the House of Representatives is created to read as follows:

Rule 52. Proposed Administrative Regulations. Before committee consideration of any bill originating in the House, which contains the authority for any agency, board or political subdivision of state government to promulgate regulations, the bill shall have attached a copy of the regulations proposed to be promulgated under the provisions of the bill, or a summary thereof.

Every committee shall have the exclusive right to determine whether the summary submitted meets the requirements of this rule. The committee may waive the provisions of this rule by majority vote, and shall acknowledge on its committee report the receipt of and consideration of the matters submitted with the bill pursuant to this rule.

The purpose of the requirements of this rule is to inform the House of the general scope of the regulations authorized by the bill and to provide a permanent record of legislative intent; and pursuant thereto, when any bill subject to the provisions of this rule becomes law the Director of the Legislative Research Commission shall cause to be filed with the Administrative Regulation Review Subcommittee of the Legislative Research Commission the summary of the regulations submitted with the bill to be used by the Administrative Regulation Review Subcommittee when reviewing regulations promulgated pursuant to the bill. The Administrative Regulation Review Subcommittee shall use the material submitted with the bill to determine legislative intent.

Nothing contained in this rule shall preclude the promulgation of regulations differing from those filed or summarized and submitted with the bill.

Section 2. This amendment of the Rules of the House of Representatives shall apply only to bills introduced after the adoption of this rule.

Section 3. Those Rules formerly numbered 52 through 73 shall be renumbered 53 through 74.

The Committee Amendment to **HR 27** is as follows:

Page 1, delete the words following "of" on line 8 through "thereof" on line 9 and substitute the words: "a statement of legislative intent for the bill, including a summary of guidelines to be followed in preparing regulations pursuant to the bill."; and on

Page 2, delete the words following "introduced" on line 16 through "rule" on line 16 and substitute the words: "after the 1978 General Assembly".

HR 28, A RESOLUTION amending Rule 39 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Rule 39 of the Rules of the House of Representatives is amended to read as follows:

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chairman, Vice Chairman and the members of all standing and special committees and shall fill any vacancies thereon. *In* *making such appointments to standing committees the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in such previous regular session. Such appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee.* A member of the Committee on Committees shall not serve as chairman of a standing committee. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice Chairman shall act in the absence of the Chairman. The Chairman of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees the number of members on the committee to be appointed shall be announced to the House. At the same, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than seventeen (17) members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three standing committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

HR 36, A RESOLUTION amending Rule 41 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 41 of the Rules of the House of Representatives be amended to read as follows:

Rule 41. Rules Committee. There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chairman, the Majority Party Whip, the Minority Floor Leader, the Minority Caucus Chairman, the Minority Party Whip, and not less than seven nor more than *ten* [nine] members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. Provided, however, that such recommitment shall be accompanied by an explanation of the reason therefor, and that no bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the Capitol Press Corps only. No electronic devices of any nature including cameras and recording devices shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five (5) legislative days. Within that time each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions and shall call the same for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which he is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall act as Chairman of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order he deems proper and shall be recognized by the Speaker for said purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chairman in the absence of the Speaker.

The Committee on Rules reported **HB 1**, **HB 53**, **HB 212**, and **HB 49** have been posted for passage in Orders of the Day, February 3, 1978.

Posting of Bills and Resolutions for Consideration

The clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **SB 76.**

Health and Welfare: **HB 162, HB 186, HB 263, HB 198.**

Calendar

HB 143, HB 37,HB 151, HB 172, SB 67, HB 71, SB 23, SB 24, SB 29, HB 26, HB 201, HB 234, HB 160, HB 185, HB 256, HB 271, HB 281, HB 282, HB 46, HB 69, HB 17, HB 18, HB 122, HB 159, HB 132, and **HB 140** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative B. Richardson moved that former members be granted the privilege of the floor. Agreed.

Recess

Representative B. Richardson moved that the House recess for ten minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

Representative Fitzgerald moved that **HB 211** be taken from the Committee on Counties and Special Districts and sent to the Committee on Highways and Traffic Safety. Agreed.

Representative Van Horn moved that the rules be suspended for the purpose of acting upon **HR 39.** Agreed.

Representative Van Horn moved the adoption of the following **HR 39:**

HR 39, A RESOLUTION honoring the Marmota monax and expressing the desire of the General Assembly for a favorable meteorological prognostication.

WHEREAS, February 2 is recognized throughout North America as groundhog day; and

WHEREAS, this humble animal has, since time immemorial, prognosticated climatic changes for mankind; and

WHEREAS, nowhere in the annals of recorded history have such prognostications been proven inaccurate, erroneous or false; and

WHEREAS, the minds and hearts of men eagerly await the result of this annual shadow boxing, and never more than this year would all so eagerly awaiting hope for his favorable prediction;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House adjourn this day, Thursday, February 2, 1978, in honor of the humble woodchuck with the hope for his favorable prediction of an early spring.

HR 39 was adopted by voice vote.

Representative McNutt moved the adoption of the following Legislative Citation No. 24:

"THE HOUSE OF REPRESENTATIVES hereby pays tribute to the late Mrs. Juanita Jennings, great humanitarian for her exemplary life of service. Her indomitable fortitude and benevolent spirit were evident in her daily living. Her civic concern and contributions on the local, state, and national level were reflected in her membership on the Hill-Burton Advisory Commission, Kentucky Advisory Council to U.S. Civil Rights, and Charter member of Paducah-McCracken County Community Chest, serving 40 years as secretary. She served with great distinction under six governors for a period of 18 years. We honor the memory of a great benefactor and financier whose life of dedication is a lasting memorial to her. (Sponsored by Representative McNutt)"

Agreed.

Representative DeFalaise moved that the rules be suspended for the purpose of allowing him to request that his name be withdrawn as a co-sponsor of **HB 45.** Agreed.

Representative Boswell moved that the rules be suspended to allow all properly filed requests for co-sponsors of Bills and Resolutions to be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative J. Allen, **HB 327;** Representative Benson, **HB 212, HB 168;** Representative Blandford, **HB 327;** Representative Brinkley, **HB 327,** Representative Brown, **HB 166;** Representative Dunn, HB 166; Representative Foster, **HB 327;** Representative Imes, **HB 212;** Representative Laymen, **HB 271;** Representative Mann, **HB 45;** Representative Noe, **HB 143;** Representative Stewart, **HB 310;** Representative Stone, **HB 327.**

Representative B. Richardson moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bils and Resolution for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 352, HB 363, HB 301, HB 259.**

Judiciary-Statutes: **HB 146, HB 251.**

Education: **HB 204, HB 228, HB 231, HB 283, HB 284, HB 340, HB 343, HJR 16, HR 32, SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 21, SB 25, SB 26, SB 31, SB 33, SB 36, SB 38, SB 39, SB 40, SB 41, SB 42, SB 43, SB 49, SB 104.**

Orders of the Day

HB 16 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Carpenter moved the adoption of the following Floor Amendment No. 1 to **HB 16:**

Page 10, lines 6-7 by deleting after the word "send" the following words "*a written report*" and inserting in lieu thereof the following words "*an itemized statement of income and expenses*"; and on lines 10, 12, and 13 by deleting after the word "*such*" the following words "*written report*" and inserting in lieu thereof the following words "*itemized statement*".

Representative Carpenter moved that **HB 16** as amended be passed.

On the roll call the vote was, Yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wrights, Yates. Nays 0.

HB 16 as amended was passed and the title agreed to.

Representative Carpenter moved that the vote by which **HB 16** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 70 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 70** be passed.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 2 to **HB 70.**

Amend printed copy of House Bill 70, page 1, line 8, by adding at the end of line 8: "and if, in the physician's judgment, such prescription will not interfere with any other medication or treatment which the physician may wish to prescribe"; and on

Page 4, by adding after line 26: (3) The secretary of the Department for Human Resources shall, after holding hearings, promulgate regulations setting a reasonable standard of profit for the manufacture, distribution or sale of amygdalin (laetrile), which shall not exceed twenty-five percent (25%) of the cost of manufacturing. Agreed.

Representative Adams moved the adoption of the following Floor Amendment No. 1 to **HB 70:**

Amend printed copy of **HB 70,** page 8, line 12, by adding the following new section:

Section 15. There is hereby appropriated to the University of Kentucky out of the general fund of the Commonwealth of Kentucky for the purpose of conducting research regarding the use of laetrile by persons residing within the Commonwealth $250,000 for the fiscal year 1978-79 and $250,000 for the fiscal year 1979-80.

Representative Beshear moved that Floor Amendment No. 1 to **HB 70** be laid on the table.

On the roll call the vote was Yeas 8-Bendl, Beshear, Blythe, Johnson,Marcum, McNutt, Siemens, Trevey. Nays 82-Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFailaise, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Ratliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, Williams, Worthington, Wright, Yates.

The motion that Floor Amendment No. 1 to **HB 70** be laid on the table was rejected.

On the roll call the vote was, Yeas 24-Adams, Bendl, Brinkley, Bruce, Clarke, Craddock, DeMarcus, Guenthner, Hancock, Holbrook, Hurst, Imes, McNutt, Morris, Noe, Patrick, Rattliff, Richards, B. Richardson, Robinson, Schmidt, Thomas, Tobin, Trevey. Nays 62-J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brown, Burch, Burnette, Carpenter, Clapp, Cyrus, Davenport, Dawahare, DeFailaise, Deskins, Donnermeyer, Dunn, Fitzgerald, Gray, Guy Haering, Head, Hines, Holloway, Isler, Johnson, Jones, Kenton, Kleier, Layman, List, Little, Mann, Marcum, McBee, McKinney, Nett, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Van Horn, Weinberg, Wells, Willims, Worthington, Wright, Yates.

The motion that Floor Amendment No. 1 to **HB 70** be adopted was rejected.

Representative McBee moved that **HB 70** as amended be passed.

On the roll call the vote was, Yeas 79-J. Allen, W. Allen, Arnold, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFailaise, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kidd Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, May, McBee,McKinney, Morris,Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Ratliff, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 14-Adams, Bendl, Beshear, Blythe, Carpenter, Hancock, Johnson, Marcum, McNutt, Richards, Robinson, Siemens, Trevey, Wells.

HB 70 as amended was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 70** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair. Speaker Pro Tempore Clapp presiding.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bils and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions

HB 380, by Representative Maynard: AN ACT relating to burglary.

HB 381, by Representative Turner: AN ACT relating to motor vehicle certificates of registration.

HB 382, by Representatives Burnette and Bruce: AN ACT relating to beavers.

HB 383, by Representative B. Richardson, AN ACT relating to certificates of environmental compatability.

HB 384, by Representative B. Richardson, AN ACT relating to the environment.

HB 385, by Representative Van Horn: AN ACT relating to insurance.

HB 386, by Representative Richards: AN ACT proposing an amendment to the Constitution of Kentucky relating to the meeting of the General Assembly.

HB 387, by Representative Richards: AN ACT proposing an amendment to Section 93 of the Constitution of Kentucky relating to constitutional state officers.

HB 388, by Representative Donnermeyer: AN ACT relating to motor vehicle emission inspections.

HB 389, by Representatives Yates and Siemens: AN ACT relating to sales and use taxes.

HB 390, by Representatives Guenthner, Imes, Bendl, Bennett, Benson, Blythe,Burch, Dunn, Hines, Holloway, Kidd,Kleier,Nett, O'Brien, Priddy, Riner, Romines,Siemens, Williams and Yates: AN ACT relating to motor vehicle certificates of title.

Posting of Bills and Resolutions for Consideration

Business Organizations and Professions: **HB 239.**

Health and Welfare: **HB 217, HB 219.**

Banking and Insurance: **HB 299, HB 258.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Judiciary-Courts: **HB 50.**

Cities: **HB 94.**

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 49** by Representative Fitzgerald.

Floor Amendment No. 2 to **HB 49** by Representative Adams.

Floor Amendment No. 1 to **HB 212** by Representative Imes.

Floor Amendment No. 1 to the Committee Substitute to **HB 1** by Representative Lindsay.

Floor Amendment No. 2 to **HR 27** by Representative LeMaster.

The Clerk announced a Freshman Caucus, Room 305, on adjournment; Committee on State Government meeting on adjournment, February 8, 1978; Committee on Appropriations and Revenue hearings, February 3, 1978, 12:30; Committee on Appropriations and Revenue hearings, February 3, 1978, 12:30; February 6, 1978, 1:00; February 7, 1978, 9:30; February 8, 1978, 9:30; February 9, 1978, no hearing; February 10, 1978, 12:30; Committee on Education, February 14 at 1:00 p.m. and February 21 at 1:00, public hearing; Committee on Rules, five minutes after adjournment; meeting of Committee Chairmen immediately after Committee on Rules, Room 307.

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 3, 1978.

On the roll call the vote was Yeas 51-Adams, Benson, Beshear, Boswell, Brown, Carpenter, Clapp, Clarke, Craddock, Davenport, DeFailaise, DeMarcus, Donnermeyer, Dunn, Foster, Guy, Head, Hines, Holbrook, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Ratliff, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Van Horn, Weinberg, Wilborn, Williams, Worthington, Yates. Nays 6-Deskins, Gray, Guenthner, Imes, Priddy, Richards.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 3, 1978

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Revered Paul Bahrer, First Christian Church, Monticello, Kentucky.

The roll was called. All present except Representatives Benson, Stewart, and Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 2, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 391, by Representative Blythe: AN ACT relating to waterworks in cities of the first class.

HB 392, by Representative Blythe: AN ACT relating to free public libraries in cities of the first class.

HB 393, by Representatives Dietz, Isler, Petty and Schmidt: AN ACT relating to county finance.

HB 394, by Representatives Davenport and Romines: AN ACT relating to liens on motor vehicles.

HB 395, by Representatives Davenport and Romines: AN ACT relating to discharge of liens.

HB 396, by Representatives Bennett, Romines, Benson, Dunn, Maynard and Priddy: AN ACT relating to recording of deeds, mortgages and other instruments.

HB 397, by Representative Burnette: AN ACT relating to sales and use taxes.

Senate Message

Announcing passage of **SB 74, SB 78, SB 91, SB 95, SB 101, SB 132, SB 166,** and **SB 167.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 367, HB 382, HB 384, HB 388.**

Appropriations and Revenue: **HB 370, HB 389.**

Banking and Insurance: **HB 375, HB 385.**

Cities: **HB 369.**

Counties and Special Districts: **HB 372.**

Education: **HB 368.**

Elections and Constitutional Amendments: **HB 371, HB 386, HB 387.**

Judiciary-Statutes: **HB 379, HB 380.**

Public Utilities and Transportation: **HB 377, HB 381, HB 383, HB 390.**

State Government: **HB 373, HB 374, HB 376, HB 378.**

Report of Committes

The Committee on Cities reported **HB 44,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 44, AN ACT creating a department of buildings, housing and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 198B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes; including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;
(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the jurisdiction of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people.

(5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard; including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(6) "Commissioner" means the commissioner of buildings, housing and construction.

(7) "Construction" means the erection, fabrication, reconstruction, alteration, repair or conversion of a building, or the installation of equipment therein.

(8) "Department" means the department of buildings, housing and construction.

(9) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving education instruction; including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocable classroom unit;
(h) Schools;
(i) Seminaries;
(j) Universities.

(10) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(11) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard; including among others:

(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(12) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard; including among others:

(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;

(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(13) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(14) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained; including among others:

(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of Corrections;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(15) "Mobile home" means mobile home as defined in KRS 227.550(1).

(16) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky board of buildings, housing and construction within the Kentucky department of buildings, housing and construction comprised of fifteen (15) members to include: one local government fire chief selected by the governor from a list of three submitted by the Kentucky Firemen's Association; the executive director of the Kentucky housing corporation; the commissioner of the bureau of health services, department for human resources; the attorney general or any assistant attorney general he may designate to represent the interests of consumers; one professional homebuilder selected by the governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one registered architect selected by the governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the governor to represent the interests of low and moderate income housing consumers within the commonwealth of Kentucky; one (1) practicing general contractor selected by the governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the governor from a list of three (3) submitted by the Kentucky State Building Trades Council; and one (1) member selected by the governor from a list of four (4): two (2) to be submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors, and two (2) to be submitted by the Mechanical Contractors Association.

(2) Nominations to the board shall be made to the governor by July 1, 1978. The governor shall make appointments to the board by July 31, 1978.

(3) Except for the commissioner of the bureau of health services, the executive director of the Kentucky housing corporation and the attorney general or his designate who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that intially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3)

year terms, and four (4) shall be appointed for four (4) year terms. No board member shall be appointed for more than one successive term except as provided in subsection (4) of this section. The governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.

(4) Vacancies occurring on the board among those members appointed by the governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his position on the board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.

(5) Members may be removed from the board by the governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.

(6) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(7) The board may elect from its members such officers as are required to conduct its business, except that neither the commissioner of the bureau of health services, the executive director of the Kentucky housing corporation nor the attorney general or his designate shall be elected to office on the board.

(8) The board may adopt such rules, regulations and by-laws as are necessary to conduct its internal business.

(9) No member of the board may vote on any matter which will result in his direct or indirect financial gain.

(10) Those members of the board who are not salaried governmental employes shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars ($50) per day. A chairman appointed from the membership of the board shall receive an additional twenty-five dollars ($25) per day when attending board meetings or attending to official board duties. All board members shall be compensated for expenses incurred in the conduct of board business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky department of buildings, housing and construction within the cabinet for public protection and regulation. The governor shall appoint a commissioner to head the department by July 1, 1978. The commissioner shall receive for his services such compensation as the governor shall determine.

(2) The commissioner may employ sufficient staff to carry out the functions of his office. Neither the commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this Act while employed by the department of buildings, housing and construction.

(3) The department shall serve as staff for the board of buildings, housing and construction as established by this Act, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him by the governor or prescribed for him by law.

(4) The department may enter into contracts with the federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this Act.

(5) Subject to the direction of the board of buildings, housing and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this Act, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this Act shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.

(7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of buildings, housing and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this Act, including expenses or administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The Kentucky board of buildings, housing and construction shall have the following general powers and duties:

(1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;

(2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;

(3) To administer regulatory legislation relating to buildings and construction;

(4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state and local agencies in the programs as they relate to buildings and construction;

(5) To assume administration and coordination of various state housing programs to include:

(a) devising and implementing procedures for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities and amenities of such housing, and housing constructed and demolished each year;

(b) designing programs coordinating the elements of housing finance, production, maintenance and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;

(c) establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;

(d) designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;

(e) promoting educational programs to assist sponsors in the development and management or low and moderate income housing for sale or rental;

(f) cooperating with various federal, state and local agencies in their programs as they relate to housing;

(g) conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;

(6) To recommend state building industry policies and goals to the Kentucky general assembly;

(7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state;

(8) To issue regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants;

(9) To issue regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants; and

(10) To issue regulations for the safe installation and operation of plumbing and plumbing fixtures.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Within one year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators,International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) provide uniform standards and requirements for construction and construction materials;

(b) to the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;

(c) protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this Act, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said board by this Act.

(6) The board shall provide for monitoring the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (7) and (9) of this section to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to passage of this Act may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for assembly, educational, institutional or high hazard occupancy, business or industrial occupancy in excess of 100 persons, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this act and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. The department may preempt any portion of a local program if the commissioner determines that the local jurisdiction is not adequately performing that portion of the program. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of Section 7 of this Act. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(6) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(7) Upon the effective date of the uniform state building code, no building shall be constructed in this state until a local building official with appropriate jurisdiction over said building, or an official representing

the department, issues a permit for such construction. The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of buildings, housing and construction, shall not be performed in order to conduct such tests or inspections.

(8) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(9) A local government may contract with other local governments, and may seek the technical assistance of other agencies in order to provide for the local enforcement of the uniform state building code. Such contracts among local governments shall conform to the provisions of KRS Chapter 65.

(10) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this Act. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The mayor, chairman of the board of trustees, or county judge/executive of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official.

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building officials or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered or certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the board of buildings, housing and construction. Appeals to the board of buildings, housing and construction shall include citation of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The board of buildings, housing and construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction.In no case shall the board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the board of buildings, housing and construction shall be addressed to the commissioner who shall immediately notify the chairman of the board when an appeal is received. The commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the board on the disposition of the case in

question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers or proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete such investigations and forward written recommendations to the chairman of the board within thirty (30) days after receiving an appeal.

(8) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty(30) days after receipt of such recommendations.

(9) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner.

(10) The board may appoint five or more of its members to consider the recommendations of the commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire board.

(11) In considering an appeal, the board, if they deem it necessary to reach an equitable decision, may exercise any of the powers granted to the commissioner in subsection (7) of Section 7 of this Act. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(12) The board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the board shall be final, and there shall be no appeal from the board's decision, except to the Franklin Circuit Court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any interested party may suggest amendments to the uniform state building code to the department of buildings, housing and construction. The department shall transmit all suggested amendments to the board with recommendations on the advisability of the suggested amendments.

(2) The board may amend the uniform state building code at any time, but only after notice in accordance with KRS Chapter 13. Such amendments shall be effective statewide.

(3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the uniform state building code as specified in subsection (3) of Section 5 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(2) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Unless explicitly stated, exemption of mobile homes from the provisions of this Act is not intended to exempt them from provisions of existing law regulating them for the purposes of health, safety and welfare.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) In all local governments in a county containing a city of the first or second class, and in urban county governments, the uniform state building code shall become effective six (6) months after promulgation by the board. Any of said local governments may adopt the code prior to that time.

(2) In all local governments in a county containing a city of the third or fourth class, but not a city of the first or second class, the uniform state building code, as it pertains to buildings for which the department has the responsibility for plan reviews, shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective two (2) years after promulgation by the board. Any of said local governments may adopt the code prior to such times.

(3) In all local governments in a county containing no city or a city of the fifth or sixth class, but not a city of the first through fourth classes, the uniform state building code as it pertains to buildings for which the department has the responsibility for plan reviews shall become effective six (6) months after promulgation by

the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three years after promulgation by the board. Any of said governments may adopt the code prior to such times.

(4) Notwithstanding the provisions of subsections (7) and (8) of Section 6 of this Act, a building for which a permit was legally granted prior to the effective date of the uniform state building code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued.

(5) A building for which plans were prepared at least three (3) months prior to the effective date of the uniform state building code and upon which construction was begun prior to the effective date of the uniform state building code in a locality not then requiring a building permit may be completed and occupied without a building permit.

SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department or any local government agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of this act or the uniform state building code.

SECTION 13. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this Act or the uniform state building code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

SECTION 14. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

No person shall hinder an inspector enforcing any of the provisions of this Act in the performance of his lawful duties under this Act.

Section 15. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers:
1. The governor.
2. Lieutenant governor.
3. Department of state.
(a) Board of elections.
4. Department of law.
(a) Consumers advisory council.
5. Department of the treasury.
6. Department of agriculture.
(a) State board of agriculture.
(b) Milk marketing and antimonopoly commission.
7. Department of education.
(a) State board of education.
(b) State textbook commission.
8. Auditor of public accounts.
9. Railroad commission.
II. Cabinet departments headed by appointed officers:
1. Executive department for finance and administration.
(a) State property and buildings commission.
(b) Turnpike authority of Kentucky.
(c) Capitol plaza authority.
[(d) Kentucky housing corporation.]
(d) [(e)] Kentucky pollution abatement authority.

(e) [(f)] Kentucky health and geriatric authority.
(f) [(g)] Kentucky savings bond authority.
(g) [(h)] County debt commission.
(h) [(i)] Spindletop foundation.
(i) [(j)] Kentucky public employes deferred compensation system.
(j) [(k)] Board of claims.
(k [(l)] Crime victims compensation board.
2. Department of transportation.
(a) Railroad commission.
(b) Motor vehicle dealers board.
3. Department for natural resources and environmental protection.
(a) Environmental quality commission.
(b) Soil and water conservation commission.
(c) Ohio river sanitation commission.
4. Department of justice.
(a) Kentucky crime commission.
(b) Parole board.
(c) Kentucky law enforcement council.
(d) Commission on corrections and community service.
(e) State police personnel board.
5. Department for human resources.
(a) Citizens commission for human resources.
(b) Advisory council for medical assistance.
(c) Unemployment insurance commission.
(d) Certificate of need and licensure board.
(e) Generic formulary council.
Cabinet for development.
Department of agriculture (headed by elected officer).
6. Department of commerce.
(a) Kentucky industrial development finance authority.
(b) Kentucky science and technology commission.
7. Department of fish and wildlife resources.
(a) Fish and wildlife resources commission.
8. Department of parks.
(a) Breaks Interstate Park commission.
9. Department of energy.
(a) Energy resources advisory commission.
10. Kentucky historical events celebration commission.
11. State fair board.
12. Kentucky geological survey.
13. Economic development commission.
14. The governor's council on agriculture.
15. The farmers advocate's office.
Cabinet for education and the arts.
16. Kentucky arts commission.
Department of education (headed by elected officer).
17. Kentucky authority for educational television.
18. Kentucky heritage commission.
19. Kentucky historical society.
20. Department of library and archives.
(a) State archives and records commission.
(b) State board for certification of librarians.
21. Advisory council for vocational education and manpower development and training.
Cabinet for public protection and regulation.
22. Department for alcoholic beverage control.
(a) Alcoholic beverage control board.
23. Department of banking and securities.
24. Department of insurance.
(a) Custodian of insurance securities.
25. Department of labor.

(a) Workmen's compensation board.
(b) Occupational safety and health standards board.
(c) State labor relations boards.
26. Department of mines and minerals.
27. Kentucky registry of election finance.
28. Public Service commission.
29. Kentucky quarterhorse and appaloosa commission.
30. Kentucky state racing commission.
31. Kentucky harness racing commission.
32. Kentucky board of tax appeals.
33. Department of buildings, housing and construction.
(a) Kentucky housing corporation.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of personnel.
(a) Personnel board.
3. Department of public information.
4. Department of revenue.
5. Human rights commission.
6. Council on public higher education.
7. Teachers' retirement system.
8. Kentucky employees' retirement system.
9. Commission on women.
10. Kentucky tobacco research board.
11. Kentucky center for energy research.

Section 16. KRS 156.160 is amended to read as follows:

Upon recommendation of the superintendent of public instruction, the state board of education shall adopt rules and regulations relating to:

(1) The biennial state school budget;

(2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(5) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. *With respect to physical standards of sanitary and protective construction for school buildings, the state board shall adopt the uniform state building code*;

(6) Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(7) The transportation of children to and from school;

(8) Approval of private and parochial schools of elementary or high school grade, and commercial schools;

(9) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(10) The preparation of budgets and salary schedules for the several school districts under the management and control of the state board of education;

(11) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(12) The disposal of real and personal property owned by local boards of education.

Section 17. KRS 162.060 is amended to read as follows:

The superintendent of public instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the state board of education. *Plan reviews for conformance with the uniform state building code shall be conducted only by the department of buildings, housing and construction.* No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the superintendent of public instruction.

Section 18. KRS 211.180 is amended to read as follows:

The department shall enforce the rules and regulations adopted by the secretary for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of *equipment related to food-handling in* food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(3) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(4) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(5) Protection and improvement of the health of the people through better nutrition.

Section 19. KRS 216.425 is amended to read as follows:

(1) There is hereby created the Kentucky health facilities and health services certificate of need and licensure board consisting of sixteen members, to be appointed by the governor, for the purpose of carrying out KRS 216.405 to 216.485. The board shall be appointed as follows: two members from the Kentucky Hospital Association, two members from the Kentucky Medical Association, two members from the Kentucky Nursing Home Association, one member from the Kentucky Nurses Association, one member from the Kentucky Dental Association, one member from the Kentucky Pharmaceutical Association, and four members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three persons for each appointment to be made. The comprehensive health planning council shall nominate three persons for each of the consumer positions. The governor shall appoint a chairman from the consumer members of the board. Members of the board shall serve for a term of four years, except that the first appointments shall be made as follows: three for a term of one year; four, a term of two years; four, a term of three years; and four, a term of four years. In event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed. The secretary for human resources shall serve in an advisory capacity to the board.

(2) Board members shall be reimbursed for allowable expenses for each day spent in active board duty.

(3) The board shall have authority to promulgate administrative regulations, to be filed with the Legislative Research Commission as provided in KRS chapter 13 and do any other acts necessary to administer KRS 216.405 to 216.485.

(4) The board shall have three separate and distinct functions:

(a) To issue certificates of need in accordance with the provisions of KRS 216.405 to 216.485.

(b) To issue licenses, regulate and inspect health facilities and health services. *Any construction code standards which may be promulgated by regulations shall conform to, or in the case of special hazards exceed, the uniform state building code, and plan reviews for conformance with such code prior to construction shall be conducted only by the department of buildings, housing and construction. These provisions shall not limit the board from conducting other necessary reviews prior to approval for construction.*

(c) To enforce, through legal actions on its own motion, the provisions of such certificates, licenses and regulations.

(5) The board shall develop, establish, enforce and may repeal standards, rules and regulations for the care, health, safety, welfare, and comfort of patients in health facilities and health services covered by KRS 216.405 to 216.485 and for the maintenance and operation of health facilities and health services which shall be designed to insure that the quality of care offered by the facility or service is satisfactory and that the facility

or service receives a license appropriate to its function. This shall include but not be limited to the classification and categorization of health facilities and health services according to character, size, range of services provided, type and level of care required. Further, the board shall develop and enforce standards relative to each classification or category of health facilities and health services which must be met in order to receive a license to operate and maintain health facilities and health services.

(6) The board shall adopt, establish and enforce criteria and procedures as developed by the state health planning council for determining the need for construction, expansion or implementation of health facilities and services.

(7) Members of the board, or its representatives, are hereby authorized to enter upon the premises of any health facility or health service as covered by KRS 216.405 to 216.485, for the purpose of inspection, at any reasonable time.

(8) The composition of the board and the rules and regulations thereof shall conform to any federal law or regulations pertaining to the licensing of health facilities.

(9) The board may appoint such technical advisory committees as are deemed necessary to administer the provisions of KRS 216.405 to 216.485.

(10) The board may, by regulation, prescribe and collect reasonable fees and charges for processing applications for certificate of need and licensure. All fees and charges collected under the provisions of KRS 216.405 to 216.485 shall be paid to the state treasurer and credited to a trust and agency account to be used in the administration of KRS 216.405 to 216.485.

(11) The board shall coordinate the requirements of all other state agencies which may have regulatory power over health facilities and health services covered by KRS 216.405 to 216.485 in such manner that the applicant is assured of having met the requirements of the other agencies when issued a license by this board.

Section 20. KRS 219.041 is amended to read as follows:

(1) The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.011 to 219.081.

(2) The secretary shall adopt a state food service code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation and cleanliness of equipment and utensils; toilet and hand washing facilities; solid waste disposal and vermin control; and such other matters deemed necessary to insure a safe and sanitary operation of a food service establishment. *Standards for construction, plumbing, lighting and ventilation of fixed food service establishments shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a fixed food service establishment shall be conducted by the department of buildings, housing and construction.*

(3) The secretary shall adopt a state hotel code which shall include, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and such other matters deemed necessary to insure a safe and sanitary operation of a hotel. *Standards for construction, plumbing, lighting and ventilation shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a hotel shall be conducted by the department of buildings, housing and construction.*

Section 21. KRS 219.051 is amended to read as follows:

The state fire marshal or his duly authorized agents or representatives shall administer and enforce all state fire regulations, laws, standards of safety and rules and regulations adopted by the *commissioner of buildings, housing and construction* [secretary of justice] relating to hotels and food service establishments.

Section 22. KRS 221.030 is amended to read as follows:

(1) The department, through its secretary or his authorized agents, shall have the authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.

(2) The secretary may prescribe and enforce such rules and regulations and to make such definitions, and prescribe such procedure with regard to hearings, as he may deem necessary to carry into effect the full intent and meaning of KRS 221.010 to 221.100. *Construction standards for buildings used as frozen food locker plants shall be effective only if approved by the board of housing, buildings and construction and included in the uniform state building code. Any construction plan reviews for such buildings required prior to approval*

for construction shall be conducted by the department of buildings, housing and construction.

(3) In any proceeding under KRS 221.010 to 221.100 the secretary may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the Commonwealth of Kentucky.

Section 23. KRS 221.070 is amended to read as follows:

The secretary shall cause to be made periodically a thorough inspection of each establishment licensed under KRS 221.010 to 221.100 to determine whether or not the premises are [constructed,] equipped and operated in accordance with the requirements of KRS 221.010 to 221.100 and of all other laws of this state applicable to the operation either of refrigerated lockers or of the handling of human food in connection therewith, and of all regulations effective under KRS 221.010 to 221.100 relative to such operation. Such inspection shall also be made of each vehicle used by the operator of refrigerated lockers or of an establishment, handling human food in connection therewith, when such vehicle is used in transporting or distributing human food products to or from refrigerated lockers within this state.

Section 24. KRS 224.032 is amended to read as follows:

The department for natural resources and environmental protection shall enforce the rules and regulations adopted by the secretary of the department for natural resources and environmental protection for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to natural reources and environmental protection, including but not limited to the following matters:

(1) The proper disposal of garbage, waste and other refuse;

[(2) The safe installation and operation of plumbing and plumbing fixtures;]

(2) [(3)] The purification of water for public and semi-public use;

(3) [(4)] The proper construction and operation of public water [purification plants,] distribution systems and *water treatment systems in public water purification plants and* swimming pools;

(4) [(5)] The review, approval or disapproval of plans for construction, modification or extension of water purification and distribution systems and *water treatment systems in* swimming pools; and

(5) [(6)] The certification of water and sewage plant operators.

Section 25. KRS 234.100 is amended to read as follows:

(1) As used in KRS 234.100 to 234.160 and 234.990 the term "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them, whether in the liquid or in the gaseous states: propane, propylene, butane (normal butane or isobutane), and butylene.

(2) "Commissioner" means commissioner of *buildings, housing and construction* [insurance].

Section 26. KRS 234.140 is amended to read as follows:

(1) The commissioner, after a public hearing thereon, shall make, promulgate, and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases, and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. *Regulations concerning the construction of buildings relating to liquefied petroleum gases shall conform to the uniform state building code after said code is promulgated.*

(2) The commissioner shall promulgate any additional rules and regulations which he deems necessary to provide for the safe storage, handling, transportation and use of liquefied petroleum gas.

Section 27. KRS 234.160 is amended to read as follows:

All moneys collected under the provisions of KRS 234.100 to 234.160 shall be paid into the state treasury and credited to a trust and agency fund to be used by the department of *buildings, housing and construction* [insurance] solely for the administration and enforcement of KRS 234.100 to 234.160 and 234.990.

Section 28. KRS 234.171 is amended to read as follows:

The commissioner of *buildings, housing and construction* [insurance] may appoint an advisory board composed of persons actively engaged in the liquefied petroleum gas industry in the state of Kentucky. The board shall give the commissioner the benefit of its technical knowledge to aid him in supervising and regulating the liquefied petroleum gas industry.

Section 29. KRS 234.175 is amended to read as follows:

(1) Domestic and commercial gas consuming equipment and appliances shall not be installed unless their correctness as to design, construction, and performance is certified by:

(a) A nationally recognized testing agency adequately equipped and competent to perform such services evidenced by the attachment of its seal or label to such gas appliances. This agency shall be one which maintains a program of national inspection of production models of gas appliances, at least once each year on the manufacturer's premises;

(b) By the American Gas Association Laboratories, as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the above-mentioned requirements, or listing by Underwriters' Laboratories, Inc., shall be considered as constituting compliance with the provisions of this section, providing, that the manufacturer has approval and certification of same from the liquefied petroleum gas bureau, department of insurance.

(2) Equipment not subject to A.G.A. or laboratory inspection must have approval of the *department of buildings, housing and construction* [liquefied petroleum gas bureau of the department of insurance].

Section 30. KRS 234.180 is amended to read as follows:

(1) For plants storing liquefied petroleum gases, and used for the dispensing of liquefied petroleum gases in liquid state into container or containers, for resale, plans shall be submitted, in duplicate, to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of insurance], and shall be approved by said *department* [bureau] before construction is started. Plans so submitted shall show the following information as a minimum:

(a) The name and address of the owner, and the name and purpose of the plant proposed;

(b) Location of the proposed plant in relation to the nearest city, town, highways, railroads, and built up areas;

(c) A plot plan showing dimensions of the area proposed to be used for the plant, distances to the nearest property lines and the location and construction of any buildings which might affect the distances required under regulations adopted by the commissioner of *buildings, housing and construction* [insurance];

(d) Construction drawings showing the arrangement and construction of all tanks, tank supports, piping, accessories, buildings, and appurtenant items of construction. These drawings shall be in sufficient detail to allow a contractor who is familiar with tank and pipe installation but not necessarily familiar with liquefied petroleum gas installations to use such drawings to satisfactorily complete the installation without further instructions;

(e) A copy of the original boiler inspector's report of inspection of the tank or tanks to be used or a reference to manufacturer's name and serial number of the tank so that such report may be obtained direct;

(f) The date of completion of the plans, the dates of any subsequent revisions and the signature of the person assuming responsibility for the correctness of the plans.

(2) For plants, installed for industrial or commercial usage, having a nominal water capacity of 150 gallons or over and serving an aggregate BTU usage of 150,000 BTUs or over and/or used for dispensing liquefied petroleum gas into other containers, not for resale, a report of installation, giving location and equipment installed, must be made to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of insurance], not later than ten (10) days after installation.

Section 31. KRS 236.010 is amended to read as follows:

As used in this chapter,

(1) "Boiler" or "boilers" shall mean and include steam or vapor boilers operating at less than 500 pounds per square inch gauge or at less than 500 degrees Fahrenheit, hot water heating boilers and hot water supply boilers.

(2) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance].

(3) "Department" means the department of *buildings, housing and construction* [insurance].

(4) "ASME" means American society of mechanical engineers.

(5) "Board." means board of boiler rules.

Section 32. KRS 236.020 is amended to read as follows:

(1) In the department of *buildings, housing and construction* [insurance] there shall be a board of boiler rules, which shall hereafter be referred to as the board, consisting of seven (7) members including the commissioner who shall serve as chairman. The other members shall be appointed to the board by the governor; one (1) for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years and two (2) for a term of four (4) years, or until their successors are appointed and qualified. At the expiration of their respective terms of office they, or their successors identifiable with the same interest respectively as provided in this section, shall be appointed for terms of four (4) years each. The governor may at any time remove any member of the board. Upon the death or incapacity of any member the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which

his predecessor was identified. Of these six (6) appointed members one (1) shall be a practical steam operating engineer of high pressure boilers, or any other representative of owners and users of high pressure boilers within the state; one (1) shall be a representative of the boiler manufacturers within the state; one (1) shall be representative of a boiler insurance company licensed to do business within the state; one (1) shall be a representative of the boilermakers within the state; one (1) shall be a metallurgist specialized in ferrous welding procedures, a practical welder on pressure piping of wide experience or a representative of pipe erecting concerns doing business within the state of Kentucky; and one (1) member shall be a representative of welders or other skilled crafts engaged in erection of pressure piping related to boilers. The board shall meet at least four (4) times each year at the capitol or other place designated by the board. No approval, decision or ruling of the board shall be effective unless supported by the vote of at least (4) members thereof.

(2) The members of the board shall serve without salary and shall receive their actual necessary expenses, incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers.

Section 33. KRS 236.030 is amended to read as follows:

After reasonable notice and opportunity to be heard, the commissioner of *buildings, housing and construction* [insurance], upon advisement by the board, shall by general order, rule or regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers and associated pressure piping in this state. Orders, rules and regulations prescribed by the board shall be enforced by the department of *buildings, housing and construction* [insurance].

Section 34. KRS 236.060 is amended to read as follows:

(1) KRS 236.005 to 236.150 shall not apply to boilers or related piping under federal control.
(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:
(a) Boilers located on farms and used solely for agricultural purposes;
(b) Boilers located at any oil refineries;

(c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;

(d) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families.

(e) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the department of *buildings, housing and construction* [insurance] under KRS chapter 234.

Section 35. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the department upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the department may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. *All plans for the construction, installation or alteration of buildings shall be forwarded by the department to the department of buildings, housing and construction. Only the department of buildings, housing and construction shall review such plans for conformance with the uniform state building code. The department of buildings, housing and construction shall expedite the review of such plans and return them to the department for human resources for completion of the application process.* Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars. Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one year from date of issuance.

Section 36. KRS 219.370 is amended to read as follows:

The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.310 to 219.410, which may include but are not limited to, standards for park construction and layout, service buildings, watering stations, sanitary stations, sanitation, site planning, lot size, water supply, sewage disposal, lighting, refuse handling, insect and rodent control, inspections, hearings, issuance, suspension, and revocation of permits, and such other matters as may be necessary to insure a safe and sanitary park operation. *All building construction regulations shall conform to the uniform state building code.* The secretary is empowered to establish separate rules and regulations for mobile home parks and recreational vehicle parks.

Section 37. KRS 227.200 is amended to read as follows:

As used in KRS 227.200 to 227.400, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance];

(2) "Department" means the department of *buildings, housing and construction* [insurance];

(3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;

(4) "Owner" means any person who owns, occupies or has charge of any property;

(5) "Property" means property of all types, both real and personal, movable and immovable;

(6) "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;

(7) "Order" or "special order" means an order of the commissioner, designed for the prevention of fire loss, which affects or may affect the property rights of a particular owner or designated property;

(8) As used in this section and KRS 227.305, unless the context otherwise requires:

(a) "Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;

(b) "Public building" shall mean any building constructed, owned or leased by the commonwealth or any political subdivision thereof;

(c) "Public accommodation" shall mean any building defined as a public accommodation by Title II of the Federal Civil Rights Act of 1964, whether or not it affects interstate commerce;

(d) "Facility for physically handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors;

(e) "American National Standard Institute Specifications" shall mean the American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and usable by, the Physically Handicapped, A 117.1-1961; and

(f) "Remodel" shall mean, with respect to an existing public building or public accommodation, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.

Section 38. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. *After promulgation of the uniform state building code, no part of the standards of safety shall establish, in whole or in part, any building code other than the uniform state building code, but the commissioner may supplement the uniform state building code with fire safety regulations designed to operate in conjunction with the code.*

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13.085 and 13.096, but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13 concerning comment on or protest of proposed regulations. All

professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employes of the department for the purpose of drafting such standards.

(4) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries, which shall indicate the items inspectors from the office of the state fire marshal will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate or manage such centers or nurseries, and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.

Section 39. KRS 227.305 is amended to read as follows:

(1) The *commissioner* [state fire marshal] shall issue regulations relating to the minimum requirements for facilities for physically handicapped persons in all public buildings and public accommodations to be constructed or remodeled after June 21, 1974. In doing so he shall adopt those standards known as the American National Standard Institute Specifications.

(2) After June 21, 1974, no building permit or other official authorization for construction or remodeling of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the regulations issued by the *commissioner* [state fire marshal] pursuant to this section and KRS 227.200.

Section 40. KRS 227.330 is amended to read as follows:

(1) Whenever the commissioner finds that any property is not safe as to fire loss, under the terms and conditions of KRS 227.200 to 227.400 and under the regulations promulgated, or that the practices or methods of operation or processes employed or used in connection therewith do not afford adequate protection from loss, under KRS 227.200 to 227.400 or under such regulations, he shall order that additions, improvements or changes be made and such equipment be provided as will reasonably render the property safe.

(2) [Before any such order is made a hearing shall be held in accordance with the provisions of KRS 304.2-320, 304.2-330, and 304.2-360.]

(3) Appeals from any order or action of the commissioner under this section may be taken in the manner prescribed in *subsections (6) through (12) of Section 7 of this Act* [KRS 304.2-370].

Section 41. KRS 227.410 is amended to read as follows:

(1) As used in this section and KRS 227.991:

(a) "Gas-fired heating device" means a gas burning appliance of either a gravity or mechanical circulation type, designed for the heating of air or of water in an enclosed structure.

(b) "Gas-fired room heating device of the unventable type" means a self-contained, free standing, air heating, gas-fired appliance, designed as a space heater for an enclosed structure.

(c) "Enclosed structure" includes a room used for public assembly, educational, instructional, mercantile, office, or residential purposes (including mobile homes, travel trailers and houseboats).

(2) No person, firm or corporation shall sell at retail or wholesale, or offer or expose for sale at retail or wholesale any gas-fired room heating device of the unventable type, or other type which has not been approved as provided in KRS 234.175, except unvented heaters that are built and sold solely for the curing of tobacco, which if sold or used by any person for any other purpose shall subject him to the penalty set forth in KRS 227.991.

(3) No person, firm or corporation shall install in any room or enclosed structure any gas-fired room heating device of the unventable type or other type which has not been approved as provided in KRS 234.175.

(4) No person, firm or corporation may install any gas-fired heating device of the ventable type for use in any room or enclosed structure unless said device is vented in accordance with the provisions of the standards of safety of the department of *buildings, housing and construction* [insurance].

(5) No person, firm, or corporation who may own a gas-fired heating device of the unventable type or a gas-fired heating device of the ventable type, which has not been approved as provided in KRS 234.175, or which does not conform to the provisions of the standards of safety of the department of insurance (all of which heating devices are referred to as "proscribed heaters" in this subsection and subsection (6) of this section), or who may occupy an enclosed structure in which such a proscribed heater is installed, shall continue to use or operate said proscribed heater after receipt of a written order described in subsection (6) of this section, and before the conditions contained in said order are met.

(6) Cities of the first or second class may under ordinance duly enacted appoint inspectors or officers who have power to issue written orders directing owners of heaters or occupants of structures in which heaters are installed, to discontinue the use or operation of a proscribed heater and to specify conditions which must be met before said proscribed heater may again be used or operated. Said order may be issued if said

authorized person has actual knowledge of the existence of a proscribed heater, and, in the opinion of said authorized person, the continued use or operation of said proscribed heater would constitute a danger to life or health; provided however, no person, agency, firm, or corporation (other than the owner, user, seller or installer of a proscribed heater) shall be liable for civil damages for his or its failure to recognize a proscribed heater, for failure to issue the order described in this subsection, for complying with said order, for assisting with the compliance therewith, or for allowing the continued use or operation of a proscribed heater prior to receipt of said order.

(7) This section shall not apply to liquefied petroleum gas heaters subject to the jurisdiction of the department [of insurance] under KRS chapter 234, except those liquefied petroleum gas heaters sold or installed for residential usage.

Section 42. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(4) "Electrical inspector" means any person certified by the *commissioner of buildings, housing and construction* [public service commission] pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the national electrical code incorporated in *the uniform state building code promulgated pursuant to Section 5 of this Act* [article I of the standards of safety of the Commonwealth of Kentucky or the electrical code of any city or county of the Commonwealth of Kentucky].

Section 43. KRS 227.470 is amended to read as follows:

Any action authorized by the provisions of KRS 227.450 to 227.500 to be accomplished by a city or county may be undertaken *cooperatively by two (2) or more local governments upon a resolution by the governing body of each local government to do so* [by the city and county jointly]. *Such cooperative agreements shall conform to the provisions of KRS Chapter 65.* [The provisions of KRS 227.450 to 227.500 may only be accomplished jointly by city and county where a joint resolution is passed, both by the fiscal court and the governing body of the city and in such instance where a joint resolution fails, the provisions of KRS 227.450 to 227.500 may be accomplished separately by the city and the county.]

Section 44. KRS 227.480 is amended to read as follows:

(1) A city or county *shall, when the uniform state building code as it pertains to the plan review responsibilities of local governments takes effect,* [may] require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. *A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.*

(2) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be *those adopted in the uniform state building code after said code is promulgated by the board of buildings, housing and construction,* [adopted by the city or the county] and shall have as a minimum standard the requirements of the national electric code [which is incorporated into the state standards of safety]. *These standards* [The standards so adopted by the city or the county] shall be used by the electrical inspector in making his inspections.

Section 45. KRS 227.489 is amended to read as follows:

The *commissioner of buildings, housing and construction* [public service commission] shall require electrical inspectors to be certified. Examinations shall be based on the national electrical code incorporated in *the uniform state building code* [article I of the standards of safety prescribed by the public service commission]. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the national electrical code, for a period of three (3) years, may be certified on the basis of knowledge of this subject and experience [except that in counties containing a city of the first class, electrical inspectors need only to have three (3) years experience to be certified on the basis of knowledge and experience].

Section 46. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians, except those who have had at least five (5) years of experience as an electrical contractor and/or electrician, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of *each local government which is party to the cooperative agreement. Such cooperative agreement shall conform to the provisions of KRS Chapter 65.* [the city and the county.] The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(3) The members of the examining board shall serve without salary.

(4) In order to administer KRS 227.450 to 227.500, the board may issue and revoke licenses [, hear and settle disputes over code questions and how it shall apply in their area]; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(5) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

Section 47. KRS 227.491 is amended to read as follows:

(1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his signature and certification number in a conspicuous place on the main service entrance equipment. He shall also provide the owner of the electrical installation or his authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the public service commission upon its request.

(2) No electrical inspector shall attempt to supplant, overrule or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure or other project have been solicited by an owner, contractor, municipality or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector. Failure of an electrical inspector to observe this provision shall subject said inspector to review by the *commissioner of buildings, housing and construction* [public service commission] with possible suspension of certification for a period not to exceed one year from date of the *commissioner's* [commission's] ruling.

Section 48. KRS 227.492 is amended to read as follows:

It shall be the duty of the *commissioner of buildings, housing and construction* [public service commission] to investigate alleged misconduct of any electrical inspector certified under KRS 227.489 when, in the opinion of the *commissioner* [commission], there is sufficient evidence to suggest that such misconduct exists. Any party may seek redress from the *commissioner* [public service commission] when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

Section 49. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means department *of buildings, housing and construction* [for natural resources and environmental protection];

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent.

(5) "Public buildings" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply;

(9) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(10) *"Commissioner" means the commissioner of the department of buildings, housing and construction;* ["Secretary" means the secretary of the department for natural resources and environmental protection;]

(11) "Code" means the Kentucky state plumbing code.

Section 50. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be of good moral character;

(c) Be a citizen of the United States or have filed with the United States district court "first papers" for United States citizenship; and

(d) Possess all the other qualifications that may be prescribed by rules and regulations of the *commissioner* [secretary].

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at such times and places as may be fixed by the regulations of the *commissioner* [secretary]. Applicants for an examination shall furnish such information as may be required by the *commissioner* [secretary] and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests as in the discretion of the department will determine:

(a) With respect to master plumber's license applicants, that such applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

(b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

Section 51. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the department.

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall

certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the department [in the manner provided by KRS 311.595]. The decision of the department shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 52. KRS 318.071 is amended to read as follows:

(1) There is hereby created a state plumbing code committee which shall be established within the department *of buildings, housing and construction* [for natural resources and environmental protection] for administrative purposes. The state plumbing code committee shall consist of seven (7) members, one (1) of whom shall be a builder member of the home builders association of Kentucky, one (1) of whom shall be a member of the association of general contractors, one (1) of whom shall be a member of the Kentucky master plumbers association, one (1) of whom shall be a member of the Kentucky society of professional engineers (who shall have a background in sanitary engineering), one (1) of whom shall be a member of the american institute of architects, one (1) of whom shall be a member of the united association of journeyman plumbers, and one (1) of whom shall be a member of the mechanical contractors association. Each member of the state plumbing code committee shall receive no compensation but shall be reimbursed for all necessary expenses. The members of the committee shall be appointed by the governor from lists of three (3) names submitted by the above mentioned organizations.

(2) Each member shall be appointed for and hold office a term of two (2) years or until his successor is appointed and qualified.

(3) At all times in the filling of vacancies of membership on the committee the balance of representation set out in subsection (1) shall be maintained.

Section 53. KRS 318.074 is amended to read as follows:

The committee shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and the *commissioner* [secretary of the department for natural resources and environmental protection] or his designee shall serve as ex-officio member of the committee (without a vote) and secretary. The committee shall meet at least quarterly and upon special call by the chairman or the secretary.

Section 54. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties specifying the matters to be considered before the submission to the *commissioner* [secretary] of its suggested amendments to the code; Provided, however, that nothing in this section shall be construed to prohibit the amendment of the code or other regulation by the department after the prior review of committee. Any person aggrieved by any rule, regulation or amendment approved by the department, within 30 days after such action has become final, may appeal therefrom to the circuit court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation or amendment arose.

Section 55. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: An employe of the department and three (3) other persons who shall be licensed either as master

or journeyman plumbers. The *commissioner* [secretary for the department for natural resources and environmental protection] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the *commissioner* [secretary] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 56. KRS 318.140 is amended to read as follows:

(1) Any *local government* [city of the first, second, or third class] may, by ordinance, enact [a plumbing code, not less stringent in its provisions than] the Kentucky state plumbing code, regulating the construction, installation, or alteration of plumbing within such *local government* [city], providing for the issuance of plumbing installation permits and fixing permit and inspection fees. *Two or more local governments may, by ordinance of each local government, enact the plumbing code as described in this section which shall be jointly enforced and administered by said local governments within their boundaries. Agreements for joint enforcement shall conform to the provisions of KRS Chapter 65.* The department may authorize any such *local government or combination of local governments* [city] to administer, carry out, and enforce the Kentucky state plumbing code and the rules and regulations of the department relating thereto and to issue permits and make inspections thereunder within such *local government* [city], in which event a permit issued under the provisions of the *local government* [city] plumbing code ordinance shall be deemed a permit issued by the department; Provided, however, That inspectors of the department shall have concurrent jurisdiction with *local government* [city] plumbing inspectors in the enforcement in such *local governments* [cities] of the Kentucky state plumbing code.

(2) Any *local government* [city] enacting a plumbing code ordinance may appoint and fix the compensation of *local government* [city] plumbing inspectors. No person shall be eligible for appointment as a *local government* [city] plumbing inspector unless he has at least eight (8) years' experience as a master or journeyman plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

(3) Nothing contained in this chapter shall be construed as prohibiting a *local government* [city] from collecting occupational license fees from persons, firms or corporations engaged in the plumbing business.

Section 57. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, [and modify or amend from time to time,] and to enforce, regulations governing the construction, reconstruction, remodeling, repair and maintenance of buildings, *pursuant to the provisions of Section 6 of this Act* [other than buildings for agricultural purposes located upon premises that are used solely for agricultural purposes].

Section 58. KRS 67.410 is amended to read as follows:

(1) The fiscal court of any [such] county [containing a city of the first or second class] may appoint a qualified and competent person to administer such regulations. His official title shall be "Building Inspector of .... County, Kentucky." His salary shall be fixed by the fiscal court, and paid out of the county levy. He shall have such deputies and assistants as the fiscal court deems necessary, and their salaries shall likewise be fixed by the fiscal court and paid out of the county levy. The fiscal court shall also pay out of county funds the necessary expenses of his office. The fiscal court may contract with individuals or corporations for the performance of technical or scientific services required for the proper enforcement and administration of its building regulations.

(2) No person shall build, erect, construct, reconstruct, remodel, relocate, alter or repair any building within the county without first obtaining a building permit from the building inspector.

(3) The fiscal court shall establish a system of reasonable fees to be charged every applicant for such permit, *but such fees shall not exceed the cost of the service provided.*

(4) Any person aggrieved by any ruling, order, or decision of such building inspector may appeal *using the procedures provided in Section 7 of this Act* [to the circuit court and to the Court of Appeals].

Section 59. KRS 84.240 is amended to read as follows:

(1) The city, through its officers and agents, may:

(a) Enter into and examine, at all reasonable times, within the city limits, any building, premises or vehicle to ascertain its condition as to healthfulness, cleanliness and safety;

(b) Take down and remove any building, wall or superstructure, that is or may become dangerous, or require the owner to remove or put it in a secure and safe condition at his own expense;

(c) Compel the consumption of smoke, and make such regulations as are necessary to prevent it from becoming deleterious and offensive to health.

(2) The city, through its officers and agents *and pursuant to the provisions of subsection (1) of Section 6 of this Act,* shall provide for the safe construction, inspection and repair of all private and public buildings in the city.

Section 60. KRS 85.190 is amended to read as follows:

The common council may, by ordinance:

(1) Provide for the prevention and extinguishment of fires, and organize, establish and maintain fire companies;

(2) Regulate the storage of combustible, explosive or inflammable materials and the use of heating and lighting appliances;

(3) Regulate or suppress the use and sale of firecrackers, fireworks and toy pistols;

(4) Regulate or prohibit the erection of wooden buildings in such parts of the city as may be deemed proper, and provide for the removal of any such building at the cost of the owner, when erected or continued contrary to ordinance;

(5) Prohibit the construction of unsafe buildings or buildings without adequate means of escape in case of fire;

(6) Regulate *pursuant to the provisions of subsection (1) of Section 6 of this Act* the construction of all buildings in the city, and provide for the construction of fire escapes;

(7) Provide for the inspection of buildings;

(8) Impose penalties upon the owner, occupant or agent in charge of any house, wall, sidewalk or other structure that is dangerous or detrimental to the public, unless, after due notice fixed by ordinance, it is removed or repaired, and may remove or repair at the expense of the owner any such structure allowed to remain contrary to ordinance.

Section 61. KRS 56.480 is amended to read as follows:

The department may appoint qualified licensed engineers and qualified graduate engineers may be appointed for a period not to exceed one (1) year without obtaining a license, who shall perform duties delegated to them from time to time by the commissioner of finance. The department shall prepare necessary plans and specifications, shall investigate and make studies of the comparative need and demand for acquiring lands, or for the construction or reconstruction or structural maintenance of buildings, or the purchase, installation or construction of equipment, facilities or furnishings incidental or pertaining thereto, and shall make the estimates of cost required in connection with or incidental to the development, purchase, acquisition or construction of the foregoing. The engineering staff shall give technical assistance and perform other duties the commissioner of finance requires. *Review of construction plans for conformance with the uniform state building code shall be conducted by the department of buildings, housing and construction.*

Section 62. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than $25,000 without first securing the approval of the executive department for finance and administration.

(2) The state agency seeking such approval shall submit to the executive department for finance and administration a general description of the proposed project, with such detailed information as the department may require. *Review of construction plans for conformance with the uniform state building code shall be conducted by the department of buildings, housing and construction.* The department *for finance and administration* shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the state treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section that the work is to be done by employes of the agency.

(3) The finding of the executive department for finance and administration shall be final except in cases where the issuance and sale of bonds is proposed, in which cases the department shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the executive department for finance and administration determines will exceed $25,000, shall be contracted for on a competitive bid basis, and the execution of such contracts must be approved and authorized by the department. When a capital construction project has been approved as provided in this section, in whole or in part, the department shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations on behalf of the requesting state agency, or with prior written approval, the department may authorize a state agency to do so with delegated authority of the department.

(5) A capital construction project, the total cost of completion of which the executive department for finance and administration determines will not exceed $25,000, may be performed by the regular employes of the requesting agency; provided, however, that the project must be approved and authorized by the department. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the department as defined in KRS Chapter 45.

(6) This section does not apply to capital outlays to the bureau of highways for roads and bridges.

(7) This section shall not apply to capital outlays by the department of corrections for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the department of corrections shall be approved and authorized by the executive department for finance and administration.

SECTION 63. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act, or of the uniform state building code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

Section 64. KRS 17.065 is repealed; KRS 67.390 and 67.400 are repealed effective August 31, 1979.

Section 65. Whereas it will be necessary to coordinate the implementation of certain procedures specified in this Act with the termination of other procedures found in existing law, the following sections of this Act shall take effect on the dates specified: Sections 15, 21, 24 through 34, 37 through 56, July 1, 1978; Sections 16, 57 through 60, August 31, 1979; Sections 17 through 20, 22, 23, 35, 36, 61 and 62, February 28, 1980.

The Committee Substitute to **HB 44** is as follows:

HB 44, AN ACT creating a department of buildings, housing and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 198B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes; including among others:

(a) Armories;
(b) Assembly halls;
(c) Auditoriums;
(d) Bowling alleys;
(e) Broadcasting studios;
(f) Chapels;
(g) Churches;
(h) Clubrooms;
(i) Community buildings;
(j) Courthouses;
(k) Dance halls;
(l) Exhibition rooms;
(m) Gymnasiums;

(n) Hotels;
(o) Lecture rooms;
(p) Lodge rooms;
(q) Motels;
(r) Motion picture theaters;
(s) Museums;
(t) Night clubs;
(u) Opera houses;
(v) Passenger stations;
(w) Pool rooms;
(x) Recreation areas;
(y) Restaurants;
(z) Skating rinks;
(aa) Television studios;
(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the jurisdiction of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people.

(5) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard; including among others:

(a) Banks;
(b) Barber shops;
(c) Beauty parlors;
(d) Department stores;
(e) Garages;
(f) Markets;
(g) Service stations;
(h) Offices;
(i) Stores;
(j) Radio stations;
(k) Telephone exchanges;
(l) Television stations.

(6) "Commissioner" means the commissioner of buildings, housing and construction.

(7) "Construction" means the erection, fabrication, reconstruction, alteration, repair or conversion of a building, or the installation of equipment therein.

(8) "Department" means the department of buildings, housing and construction.

(9) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving education instruction; including among others:

(a) Academies;
(b) Care centers;
(c) Colleges;
(d) Kindergartens;
(e) Libraries;
(f) Pre-schools;
(g) Relocable classroom unit;
(h) Schools;

(i) Seminaries;
(j) Universities.

(10) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(11) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, high flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard; including among others:
(a) Aluminum powder factories;
(b) Charging or filling stations;
(c) Distilleries;
(d) Dry cleaning plants;
(e) Dry dyeing plants;
(f) Explosive-manufacture, sale or storage;
(g) Flour and feed mills;
(h) Gasoline bulk plants;
(i) Grain elevators;
(j) Lacquer factories;
(k) Liquefied petroleum gas;
(l) Mattress factories;
(m) Paint factories;
(n) Pyroxylin-factories, or warehouses;
(o) Rubber factories.

(12) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging or processing operations, except for occupancies of high hazard; including among others:
(a) Assembly plants;
(b) Creameries;
(c) Electrical substations;
(d) Factories;
(e) Ice plants;
(f) Laboratories;
(g) Laundries;
(h) Manufacturing plants;
(i) Mills;
(j) Power plants;
(k) Processing plants;
(l) Pumping stations;
(m) Repair garages;
(n) Smokehouses;
(o) Workshops.

(13) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(14) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable or other care or treatment, or by persons involuntarily detained; including among others:
(a) Asylums;
(b) Homes for the aged;
(c) Hospitals;
(d) Houses of Corrections;
(e) Infirmaries;
(f) Jails;
(g) Nursing homes;
(h) Orphanages;
(i) Penal institutions;
(j) Reformatories;
(k) Sanitariums;
(l) Nurseries.

(15) "Mobile home" means mobile home as defined in KRS 227.550(1).

(16) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky board of buildings, housing and construction within the Kentucky department of buildings, housing and construction comprised of seventeen (17) members to include: the commissioner of the department, one local government fire chief selected by the governor from a list of three submitted by the Kentucky Firemen's Association; the executive director of the Kentucky housing corporation; the commissioner of the bureau of health services, department for human resources; the attorney general or any assistant attorney general he may designate to represent the interests of consumers; one professional homebuilder selected by the governor from a list of three (3) submitted by the Home Builders Association of Kentucky; one registered architect selected by the governor from a list of three (3) submitted by the Kentucky Society of Architects; one (1) registered structural engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered mechanical engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) registered electrical engineer selected by the governor from a list of three (3) submitted by the Kentucky Society of Professional Engineers; one (1) citizen member selected by the governor to represent the interests of low and moderate income housing consumers within the commonwealth of Kentucky; one (1) citizen member at large; one (1) practicing general contractor selected by the governor from a list of three (3) submitted by the Kentucky Association of General Contractors; one (1) practicing code administrator selected by the governor from a list of three (3) submitted by the Codes Administrators Association of Kentucky; one (1) realtor selected by the governor from a list of three (3) submitted by the Kentucky Association of Realtors; one (1) member selected by the governor from a list of three (3) submitted by the Kentucky State Building Trades Council; and one (1) member selected by the governor from a list of four (4): two (2) to be submitted by the Kentucky Association of Plumbing, Heating and Cooling Contractors, and two (2) to be submitted by the Mechanical Contractors Association.

(2) Nominations to the board shall be made to the governor by July 1, 1978. The governor shall make appointments to the board by July 31, 1978.

(3) Except for the commissioner of the department, the commissioner of the bureau of health services, the executive director of the Kentucky housing corporation and the attorney general or his designate who shall serve on the board during the term of their existing office and shall be voting members, board members shall be appointed for four (4) year terms, except that initially four (4) shall be appointed for two (2) year terms, four (4) shall be appointed for three (3) year terms, and five (5) shall be appointed for four (4) year terms. No board member shall be appointed for more than one successive term except as provided in subsection (4) of this section. The governor shall, within the limitations of this subsection, set the length of term of each of the initial appointees to the board.

(4) Vacancies occurring on the board among those members appointed by the governor shall be filled by seeking nominations as in subsection (1) of this section from the organization which originally nominated the member who is to be replaced. A replacement for a board member shall be appointed immediately upon the expiration of the departing board member's term of service. Should a board member vacate his position on the board prior to the expiration of his term, his replacement shall be appointed for the period of the unexpired term. Should the unexpired term be less than two (2) years, the person selected to fill the unexpired term may subsequently be appointed to one (1) successive four (4) year term.

(5) Members may be removed from the board by the governor for unethical conduct or for failure to attend three (3) or more successive meetings of the board without reasonable cause.

(6) The board shall meet at least quarterly, and the first meeting shall occur no later than August 31, 1978. Before assuming their duties, members of the board shall take an oath as specified in Section 228 of the Constitution of Kentucky.

(7) The commissioner of the department shall serve as chairman of the board. The board may elect from its members other officers as are required to conduct its business, except that neither the commissioner of the bureau of health services, the executive director of the Kentucky housing corporation nor the attorney general or his designate shall be elected to office on the board.

(8) The board may adopt such rules, regulations and by-laws as are necessary to conduct its internal business.

(9) No member of the board may vote on any matter which will result in his direct or indirect financial gain.

(10) Those members of the board who are not salaried governmental employes shall be compensated for their time when attending board meetings or attending to official duties as directed by the board at the rate of fifty dollars ($50) per day. All board members shall be compensated for expenses incurred in the conduct of board business.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky department of buildings, housing and construction within the cabinet for public protection and regulation. The governor shall appoint a commissioner to head the department by July 1, 1978. The commissioner shall receive for his services such compensation as the governor shall determine.

(2) The commissioner may employ sufficient staff to carry out the functions of his office. Neither the commissioner nor any member of his staff shall be employed, either directly or indirectly, in any aspect of the building industry as regulated by this Act while employed by the department of buildings, housing and construction.

(3) The department shall serve as staff for the board of buildings, housing and construction as established by this Act, and shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of this body. The board shall prescribe the duties of the commissioner in addition to those duties otherwise delegated to him by the governor or prescribed for him by law.

(4) The department may enter into contracts with the federal government, other agencies of state government or with its subdivisions, or with private profit or nonprofit organizations in order to effect the purposes of this Act.

(5) Subject to the direction of the board of buildings, housing and construction, the commissioner shall cooperate with the agencies of the United States and with the governing bodies and housing authorities of counties, cities, and with not for profit organizations and area development districts in relation to matters set forth in this Act, and in any reasonable manner that may be necessary for the state to qualify for, and to receive grants or aid from such agencies. To these ends and subject to the direction of the board, the commissioner shall have the power to comply with each condition and execute such agreements as may be necessary, convenient, or desirable.

(6) Nothing in this Act shall preclude any other agency, board, or officer of the state from being designated as the directing or allocating agency, board, or officer for the distribution of federal grants and aid, or the performance of other duties to the extent necessary to qualify for and to receive grants and aid for programs under the administration of the department.

(7) The commissioner is authorized to receive, for and on behalf of the state, the department, and the board of buildings, housing and construction, from the United States and agencies thereof, and from any and all other sources, grants and aid and gifts made for the purpose of providing, or to assist in providing, any of the programs authorized by this Act, including expenses or administration. All such funds shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The Kentucky board of buildings, housing and construction shall have the following general powers and duties:

(1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;

(2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability and comfort;

(3) To administer regulatory legislation relating to buildings and construction;

(4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state and local agencies in the programs as they relate to buildings and construction;

(5) To assume administration and coordination of various state housing programs to include:

(a) devising and implementing procedures, in conjunction with the department of local government, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities and amenities of such housing, and housing constructed and demolished each year;

(b) designing programs coordinating the elements of housing finance, production, maintenance and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;

(c) establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;

(d) designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;

(e) promoting educational programs to assist sponsors in the development and management or low and moderate income housing for sale or rental;

(f) cooperating with various federal, state and local agencies in their programs as they relate to housing;

(g) conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;

(6) To recommend state building industry policies and goals to the Kentucky general assembly;

(7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state;

(8) To issue regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the department to the department for natural resources and environmental protection for that department's comments. Any such regulations shall require the department for natural resources comments to be completed and submitted to the department within sixty (60) days;

(9) To issue regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants, provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted by the department to the department for natural resources and environmental protection for that department's comments. Any such regulations shall require the department for natural resources comments to be completed and submitted to the department within sixty (60) days; and

(10) To issue regulations for the safe installation and operation of plumbing and plumbing fixtures.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Within one year from its initial meeting, after adequate notice in accordance with KRS Chapter 13, the board shall adopt and promulgate a mandatory uniform state building code which shall establish standards for the construction of all buildings, as defined in Section 1 of this Act, in the state. The code shall provide that the review and approval, as necessary, of building plans for conformance with the uniform state building code prior to construction approval shall be conducted only by the department or a local government or governments delegated such responsibilities by this chapter, and any exceptions to this policy shall be explicitly stated in the code.

(2) The code shall be comprehensive and shall include but not be limited to provisions for general construction; structural quality; mechanical systems to include heating, cooling, and ventilation; electrical systems; and life safety from hazards of fire, explosion, and other disasters, whether caused by acts of nature or man. The code shall encompass the Kentucky state plumbing code promulgated pursuant to KRS 318.130, boiler rules and regulations issued pursuant to KRS 236.030, and the national electrical code.

(3) This code shall be designed after and may be selected from the models offered by such model code agencies as the Building Officials and Code Administrators,International, Inc.; the International Conference of Building Officials; the Southern Building Code Congress; and other nationally recognized organizations which may include governmental agencies. The code shall:

(a) provide uniform standards and requirements for construction and construction materials;

(b) to the extent practicable, set forth standards, specifications and requirements in terms of performance objectives, so as to facilitate the use of new technologies, techniques, and materials. The code shall not discriminate in favor of particular suppliers' materials, techniques, or technologies;

(c) protect the public health, safety, and welfare within the state.

(4) Adoption of a code shall include provisions for the continuing review of, and the board shall adopt when deemed justified to fulfill the purposes of this Act, new materials, technologies, and techniques in the building industry. The board may adopt a model code promulgated by a model code agency only if that agency provides a method for democratic participation by the board and any local governments which may enforce the code, in a continuing review and possible adoption of new materials, technologies, and techniques in the building industry.

(5) The board shall issue regulations, after notice in accordance with KRS Chapter 13, which are necessary to implement the uniform state building code or to carry out any other responsibility assigned to said board by this Act.

(6) The board shall provide for monitoring the effectiveness of agencies designated by local governments to enforce the provisions of the uniform state building code.

(7) The board shall provide for the supply, including amendments and revisions thereto, of sufficient copies of the uniform state building code for all interested parties.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (7) and (9) of this section to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with

the uniform state building code, except that a building code adopted by a local government prior to passage of this Act may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than 20,000 square feet of floor area, and are not intended for assembly, educational, institutional or high hazard occupancy, business or industrial occupancy in excess of 100 persons, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this act and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of their program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of Section 7 of this Act. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) through (12) of Section 7 of this Act. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(6) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(7) Upon the effective date of the uniform state building code, no building shall be constructed in this state until a local building official and an official representing the department if the department has jurisdiction issue a permit for such construction. The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code. This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of buildings, housing and construction, shall not be performed in order to conduct such tests or inspections.

(8) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(9) A local government may contract with other local governments, and may seek the technical assistance of other agencies in order to provide for the local enforcement of the uniform state building code. Such contracts among local governments shall conform to the provisions of KRS Chapter 65.

(10) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this Act. Such fees shall be designed to fully cover the cost of the service performed but shall in no case exceed the cost of the service performed. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The mayor, chairman of the board of trustees, or county judge/executive of a local government which is enforcing the uniform state building code may, upon the approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals from the decisions of the local building official.

(2) Local governments which are enforcing the uniform state building code may cooperate with each other to provide a local appeals board and shall adhere to the provisions of KRS Chapter 65 when entering such cooperative agreements. No local building officials or employe of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has a private interest.

(3) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt. All parties to the appeal shall be notified of the time and place of the hearing by letter mailed by registered or certified mail no later than ten (10) days prior to the date of the hearing. The local appeals board shall render a decision within five (5) working days after the hearing.

(4) A local appeals board may uphold, amend, or reverse the decision of a local building official, and there shall be no appeal from the decision of a local appeals board other than by appeal to the board of buildings, housing and construction. Appeals to the board of buildings, housing and construction shall include citation of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the local appeals board or the local building official relative to those provisions is being contested.

(5) The board of buildings, housing and construction shall serve to hear appeals from the decisions of local appeals boards, when such boards exist, or to hear appeals directly from the decisions of local building officials in cases where no local appeals board has jurisdiction.In no case shall the board hear an appeal directly from a party aggrieved by the decision of a local building official when there is a local appeals board with jurisdiction in the case.

(6) The board shall hear appeals directly from a party aggrieved by the decision of an agent of the department. Such appeals shall include citations of those provisions of the uniform state building code which are at issue, and an explanation of why the decision of the agent of the department relative to those provisions is being contested.

(7) Appeals to the board of buildings, housing and construction shall be addressed to the commissioner who shall immediately notify the board when an appeal is received. The commissioner or a designated employe of his department shall then investigate the evidence pertaining to such appeal and, based upon the results of such investigation, make recommendations to the board on the disposition of the case in question. No employe of the department shall investigate or make recommendations on an appeal to his own decision, but shall defer in such cases to employes who were not party to the decision which led to the appeal. In conducting such investigation, the commissioner or his designated representatives, acting for the department, shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause depositions to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issues by consent of the parties. The commissioner shall complete such investigations and forward written recommendations to the board within thirty (30) days after receiving an appeal.

(8) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its next regularly scheduled meeting, but no later than thirty(30) days after receipt of such recommendations.

(9) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner.

(10) The board may appoint five or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct the hearing, and those so appointed shall act in all matters concerning the appeal for the entire board.

(11) In considering an appeal, the board, if they deem it necessary to reach an equitable decision, may exercise any of the powers granted to the commissioner in subsection (7) of Section 7 of this Act. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(12) The board may uphold, amend, or reverse the decision of a local appeals board, a local building official or an agent of the department; and the decision of the board shall be final, and there shall be no appeal from the board's decision, except to the Franklin Circuit Court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any interested party may suggest amendments to the uniform state building code to the department of buildings, housing and construction. The department shall transmit all suggested amendments to the board with recommendations on the advisability of the suggested amendments.

(2) The board may amend the uniform state building code at any time, but only after notice in accordance with KRS Chapter 13. Such amendments shall be effective statewide.

(3) No amendment shall violate the performance orientation of the code, favor certain materials or suppliers, or weaken the life safety features of the uniform state building code as specified in subsection (3) of Section 5 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department may conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(2) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Unless explicitly stated, exemption of mobile homes from the provisions of this Act is not intended to exempt them from provisions of existing law regulating them for the purposes of health, safety and welfare.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) In all local governments in a county containing a city of the first or second class, and in urban county governments, the uniform state building code shall become effective six (6) months after promulgation by the board. Any of said local governments may adopt the code prior to that time.

(2) In all local governments in a county containing a city of the third or fourth class, but not a city of the first or second class, the uniform state building code, as it pertains to buildings for which the department has the responsibility for plan reviews, shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective two (2) years after promulgation by the board. Any of said local governments may adopt the code prior to such times.

(3) In all local governments in a county containing no city or a city of the fifth or sixth class, but not a city of the first through fourth classes, the uniform state building code as it pertains to buildings for which the department has the responsibility for plan reviews shall become effective six (6) months after promulgation by the board and as it pertains to buildings for which local governments have responsibility for plan review shall become effective three years after promulgation by the board. Any of said governments may adopt the code prior to such times.

(4) Notwithstanding the provisions of subsections (7) and (8) of Section 6 of this Act, a building for which a permit was legally granted prior to the effective date of the uniform state building code may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(5) A building for which plans were prepared at least three (3) months prior to the effective date of the uniform state building code and upon which construction was begun prior to the effective date of the uniform state building code in a locality not then requiring a building permit may be completed and occupied without a building permit.

SECTION 12. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department or any local government agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code, the reconstruction, alteration, repair or conversion does not conform to the requirements of Sections 1 through 14 of this Act or the uniform state building code.

SECTION 13. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other remedies available, any person or party, in an individual capacity or on behalf of a class of persons or parties, damaged as a result of a violation of this Act or the uniform state building code, has a cause of action in any court of competent jurisdiction against the person or party who committed the violation. An award may include damages and the cost of litigation, including reasonable attorney's fees.

SECTION 14. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

No person shall hinder an inspector enforcing any of the provisions of this Act in the performance of his lawful duties under this Act.

Section 15. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers:
1. The governor.
2. Lieutenant governor.
3. Department of state.
(a) Board of elections.
4. Department of law.
(a) Consumers advisory council.
5. Department of the treasury.
6. Department of agriculture.
(a) State board of agriculture.
(b) Milk marketing and antimonopoly commission.
7. Department of education.
(a) State board of education.
(b) State textbook commission.
8. Auditor of public accounts.
9. Railroad commission.
II. Cabinet departments headed by appointed officers:
1. Executive department for finance and administration.
(a) State property and buildings commission.
(b) Turnpike authority of Kentucky.
(c) Capitol plaza authority.
[(d) Kentucky housing corporation.]
(d) [(e)] Kentucky pollution abatement authority.
(e) [(f)] Kentucky health and geriatric authority.
(f) [(g)] Kentucky savings bond authority.
(g) [(h)] County debt commission.
(h) [(i)] Spindletop foundation.
(i) [(j)] Kentucky public employes deferred compensation system.
(j) [(k)] Board of claims.
(k [(l)] Crime victims compensation board.
2. Department of transportation.
(a) Railroad commission.
(b) Motor vehicle dealers board.
3. Department for natural resources and environmental protection.
(a) Environmental quality commission.

(b) Soil and water conservation commission.
(c) Ohio river sanitation commission.
4. Department of justice.
(a) Kentucky crime commission.
(b) Parole board.
(c) Kentucky law enforcement council.
(d) Commission on corrections and community service.
(e) State police personnel board.
5. Department for human resources.
(a) Citizens commission for human resources.
(b) Advisory council for medical assistance.
(c) Unemployment insurance commission.
(d) Certificate of need and licensure board.
(e) Generic formulary council.
Cabinet for development.
Department of agriculture (headed by elected officer).
6. Department of commerce.
(a) Kentucky industrial development finance authority.
(b) Kentucky science and technology commission.
7. Department of fish and wildlife resources.
(a) Fish and wildlife resources commission.
8. Department of parks.
(a) Breaks Interstate Park commission.
9. Department of energy.
(a) Energy resources advisory commission.
10. Kentucky historical events celebration commission.
11. State fair board.
12. Kentucky geological survey.
13. Economic development commission.
14. The governor's council on agriculture.
15. The farmers advocate's office.
Cabinet for education and the arts.
16. Kentucky arts commission.
Department of education (headed by elected officer).
17. Kentucky authority for educational television.
18. Kentucky heritage commission.
19. Kentucky historical society.
20. Department of library and archives.
(a) State archives and records commission.
(b) State board for certification of librarians.
21. Advisory council for vocational education and manpower development and training.
Cabinet for public protection and regulation.
22. Department for alcoholic beverage control.
(a) Alcoholic beverage control board.
23. Department of banking and securities.
24. Department of insurance.
(a) Custodian of insurance securities.
25. Department of labor.
(a) Workmen's compensation board.
(b) Occupational safety and health standards board.
(c) State labor relations boards.
26. Department of mines and minerals.
27. Kentucky registry of election finance.
28. Public Service commission.
29. Kentucky quarterhorse and appaloosa commission.
30. Kentucky state racing commission.
31. Kentucky harness racing commission.
32. Kentucky board of tax appeals.
33. Department of buildings, housing and construction.
(a) Kentucky housing corporation.

III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of personnel.
(a) Personnel board.
3. Department of public information.
4. Department of revenue.
5. Human rights commission.
6. Council on public higher education.
7. Teachers' retirement system.
8. Kentucky employees' retirement system.
9. Commission on women.
10. Kentucky tobacco research board.
11. Kentucky center for energy research.

Section 16. KRS 156.160 is amended to read as follows:

Upon recommendation of the superintendent of public instruction, the state board of education shall adopt rules and regulations relating to:

(1) The biennial state school budget;

(2) Minimum courses of study for the different grades and kinds of common schools, and regulations governing educational equipment of the schools;

(3) Grading, classifying and accrediting all common schools, and for determining the scope of instruction that may be offered in the different classes of schools, and the minimum requirements for graduation from the courses offered;

(4) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(5) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings and classrooms. *With respect to physical standards of sanitary and protective construction for school buildings, the state board shall adopt the uniform state building code*;

(6) Medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children;

(7) The transportation of children to and from school;

(8) Approval of private and parochial schools of elementary or high school grade, and commercial schools;

(9) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(10) The preparation of budgets and salary schedules for the several school districts under the management and control of the state board of education;

(11) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts;

(12) The disposal of real and personal property owned by local boards of education.

Section 17. KRS 162.060 is amended to read as follows:

The superintendent of public instruction shall be furnished a copy of all plans and specifications for new public school buildings contemplated by boards of education and for all additions to or alterations of old buildings. He shall examine or cause to be examined all such plans and specifications and shall approve or disapprove them in accordance with the rules and regulations of the state board of education. *Plan reviews for conformance with the uniform state building code shall be conducted only by the department of buildings, housing and construction.* No board of education may award a contract for the erection of a new building or contract for an addition to or alteration of an old building until the plan has been approved by the superintendent of public instruction.

Section 18. KRS 211.180 is amended to read as follows:

The department shall enforce the rules and regulations adopted by the secretary for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of *equipment related to food-handling in* food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(3) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(4) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(5) Protection and improvement of the health of the people through better nutrition.

Section 19. KRS 216.425 is amended to read as follows:

(1) There is hereby created the Kentucky health facilities and health services certificate of need and licensure board consisting of sixteen members, to be appointed by the governor, for the purpose of carrying out KRS 216.405 to 216.485. The board shall be appointed as follows: two members from the Kentucky Hospital Association, two members from the Kentucky Medical Association, two members from the Kentucky Nursing Home Association, one member from the Kentucky Nurses Association, one member from the Kentucky Dental Association, one member from the Kentucky Pharmaceutical Association, and four members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three persons for each appointment to be made. The comprehensive health planning council shall nominate three persons for each of the consumer positions. The governor shall appoint a chairman from the consumer members of the board. Members of the board shall serve for a term of four years, except that the first appointments shall be made as follows: three for a term of one year; four, a term of two years; four, a term of three years; and four, a term of four years. In event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed. The secretary for human resources shall serve in an advisory capacity to the board.

(2) Board members shall be reimbursed for allowable expenses for each day spent in active board duty.

(3) The board shall have authority to promulgate administrative regulations, to be filed with the Legislative Research Commission as provided in KRS chapter 13 and do any other acts necessary to administer KRS 216.405 to 216.485.

(4) The board shall have three separate and distinct functions:

(a) To issue certificates of need in accordance with the provisions of KRS 216.405 to 216.485.

(b) To issue licenses, regulate and inspect health facilities and health services. *Any construction code standards which may be promulgated by regulations shall conform to, or in the case of special hazards exceed, the uniform state building code, and plan reviews for conformance with such code prior to construction shall be conducted only by the department of buildings, housing and construction. These provisions shall not limit the board from conducting other necessary reviews prior to approval for construction.*

(c) To enforce, through legal actions on its own motion, the provisions of such certificates, licenses and regulations.

(5) The board shall develop, establish, enforce and may repeal standards, rules and regulations for the care, health, safety, welfare, and comfort of patients in health facilities and health services covered by KRS 216.405 to 216.485 and for the maintenance and operation of health facilities and health services which shall be designed to insure that the quality of care offered by the facility or service is satisfactory and that the facility or service receives a license appropriate to its function. This shall include but not be limited to the classification and categorization of health facilities and health services according to character, size, range of services provided, type and level of care required. Further, the board shall develop and enforce standards relative to each classification or category of health facilities and health services which must be met in order to receive a license to operate and maintain health facilities and health services.

(6) The board shall adopt, establish and enforce criteria and procedures as developed by the state health planning council for determining the need for construction, expansion or implementation of health facilities and services.

(7) Members of the board, or its representatives, are hereby authorized to enter upon the premises of any health facility or health service as covered by KRS 216.405 to 216.485, for the purpose of inspection, at any reasonable time.

(8) The composition of the board and the rules and regulations thereof shall conform to any federal law or regulations pertaining to the licensing of health facilities.

(9) The board may appoint such technical advisory committees as are deemed necessary to administer the provisions of KRS 216.405 to 216.485.

(10) The board may, by regulation, prescribe and collect reasonable fees and charges for processing applications for certificate of need and licensure. All fees and charges collected under the provisions of KRS 216.405 to 216.485 shall be paid to the state treasurer and credited to a trust and agency account to be used in the administration of KRS 216.405 to 216.485.

(11) The board shall coordinate the requirements of all other state agencies which may have regulatory power over health facilities and health services covered by KRS 216.405 to 216.485 in such manner that the applicant is assured of having met the requirements of the other agencies when issued a license by this board.

Section 20. KRS 219.041 is amended to read as follows:

(1) The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.011 to 219.081.

(2) The secretary shall adopt a state food service code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation and cleanliness of equipment and utensils; toilet and hand washing facilities; solid waste disposal and vermin control; and such other matters deemed necessary to insure a safe and sanitary operation of a food service establishment. *Standards for construction, plumbing, lighting and ventilation of fixed food service establishments shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a fixed food service establishment shall be conducted by the department of buildings, housing and construction.*

(3) The secretary shall adopt a state hotel code which shall include, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and such other matters deemed necessary to insure a safe and sanitary operation of a hotel. *Standards for construction, plumbing, lighting and ventilation shall be effective only if they are approved by the board of buildings, housing and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a hotel shall be conducted by the department of buildings, housing and construction.*

Section 21. KRS 219.051 is amended to read as follows:

The state fire marshal or his duly authorized agents or representatives shall administer and enforce all state fire regulations, laws, standards of safety and rules and regulations adopted by the *commissioner of buildings, housing and construction* [secretary of justice] relating to hotels and food service establishments.

Section 22. KRS 221.030 is amended to read as follows:

(1) The department, through its secretary or his authorized agents, shall have the authority of supervising and enforcing the provisions of KRS 221.010 to 221.100.

(2) The secretary may prescribe and enforce such rules and regulations and to make such definitions, and prescribe such procedure with regard to hearings, as he may deem necessary to carry into effect the full intent and meaning of KRS 221.010 to 221.100. *Construction standards for buildings used as frozen food locker plants shall be effective only if approved by the board of housing, buildings and construction and included in the uniform state building code. Any construction plan reviews for such buildings required prior to approval for construction shall be conducted by the department of buildings, housing and construction.*

(3) In any proceeding under KRS 221.010 to 221.100 the secretary may administer oaths and issue subpoenas, summon witnesses and take testimony of any person within the Commonwealth of Kentucky.

Section 23. KRS 221.070 is amended to read as follows:

The secretary shall cause to be made periodically a thorough inspection of each establishment licensed under KRS 221.010 to 221.100 to determine whether or not the premises are [constructed,] equipped and operated in accordance with the requirements of KRS 221.010 to 221.100 and of all other laws of this state applicable to the operation either of refrigerated lockers or of the handling of human food in connection therewith, and of all regulations effective under KRS 221.010 to 221.100 relative to such operation. Such inspection shall also be made of each vehicle used by the operator of refrigerated lockers or of an establishment, handling human food in connection therewith, when such vehicle is used in transporting or distributing human food products to or from refrigerated lockers within this state.

Section 24. KRS 224.032 is amended to read as follows:

The department for natural resources and environmental protection shall enforce the rules and regulations adopted by the secretary of the department for natural resources and environmental protection for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to natural reources and environmental protection, including but not limited to the following matters:

(1) The proper disposal of garbage, waste and other refuse;

[(2) The safe installation and operation of plumbing and plumbing fixtures;]

(2) [(3)] The purification of water for public and semi-public use;

(3) [(4)] The proper construction and operation of public water [purification plants,] distribution systems and *water treatment systems in public water purification plants and* swimming pools;

(4) [(5)] The review, approval or disapproval of plans for construction, modification or extension of water purification and distribution systems and *water treatment systems in* swimming pools; and

(5) [(6)] The certification of water and sewage plant operators.

Section 25. KRS 234.100 is amended to read as follows:

(1) As used in KRS 234.100 to 234.160 and 234.990 the term "liquefied petroleum gas" means and includes any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them, whether in the liquid or in the gaseous states: propane, propylene, butane (normal butane or isobutane), and butylene.

(2) "Commissioner" means commissioner of *buildings, housing and construction* [insurance].

Section 26. KRS 234.140 is amended to read as follows:

(1) The commissioner, after a public hearing thereon, shall make, promulgate, and enforce regulations setting forth minimum general standards covering the design, construction, location, installation, and operation of equipment for storing, handling, transporting by tank truck, tank trailer, and utilizing liquefied petroleum gases, and specifying the odorization of said gases and the degree thereof. Said regulations shall be such as are reasonably necessary for the protection of the health, welfare and safety of the public and persons using such materials, and shall be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. *Regulations concerning the construction of buildings relating to liquefied petroleum gases shall conform to the uniform state building code after said code is promulgated.*

(2) The commissioner shall promulgate any additional rules and regulations which he deems necessary to provide for the safe storage, handling, transportation and use of liquefied petroleum gas.

Section 27. KRS 234.160 is amended to read as follows:

All moneys collected under the provisions of KRS 234.100 to 234.160 shall be paid into the state treasury and credited to a trust and agency fund to be used by the department of *buildings, housing and construction* [insurance] solely for the administration and enforcement of KRS 234.100 to 234.160 and 234.990.

Section 28. KRS 234.171 is amended to read as follows:

The commissioner of *buildings, housing and construction* [insurance] may appoint an advisory board composed of persons actively engaged in the liquefied petroleum gas industry in the state of Kentucky. The board shall give the commissioner the benefit of its technical knowledge to aid him in supervising and regulating the liquefied petroleum gas industry.

Section 29. KRS 234.175 is amended to read as follows:

(1) Domestic and commercial gas consuming equipment and appliances shall not be installed unless their correctness as to design, construction, and performance is certified by:

(a) A nationally recognized testing agency adequately equipped and competent to perform such services evidenced by the attachment of its seal or label to such gas appliances. This agency shall be one which maintains a program of national inspection of production models of gas appliances, at least once each year on the manufacturer's premises;

(b) By the American Gas Association Laboratories, as evidenced by the attachment of its listing symbol or approval seal to gas appliances and a certificate or letter certifying approval under the above-mentioned requirements, or listing by Underwriters' Laboratories, Inc., shall be considered as constituting compliance with the provisions of this section, providing, that the manufacturer has approval and certification of same from the liquefied petroleum gas bureau, department of insurance.

(2) Equipment not subject to A.G.A. or laboratory inspection must have approval of the *department of buildings, housing and construction* [liquefied petroleum gas bureau of the department of insurance].

Section 30. KRS 234.180 is amended to read as follows:

(1) For plants storing liquefied petroleum gases, and used for the dispensing of liquefied petroleum gases in liquid state into container or containers, for resale, plans shall be submitted, in duplicate, to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of insurance], and shall be approved by said *department* [bureau] before construction is started. Plans so submitted shall show the following information as a minimum:

(a) The name and address of the owner, and the name and purpose of the plant proposed;

(b) Location of the proposed plant in relation to the nearest city, town, highways, railroads, and built up areas;

(c) A plot plan showing dimensions of the area proposed to be used for the plant, distances to the nearest property lines and the location and construction of any buildings which might affect the distances required under regulations adopted by the commissioner of *buildings, housing and construction* [insurance];

(d) Construction drawings showing the arrangement and construction of all tanks, tank supports, piping, accessories, buildings, and appurtenant items of construction. These drawings shall be in sufficient detail to allow a contractor who is familiar with tank and pipe installation but not necessarily familiar with liquefied petroleum gas installations to use such drawings to satisfactorily complete the installation without further instructions;

(e) A copy of the original boiler inspector's report of inspection of the tank or tanks to be used or a reference to manufacturer's name and serial number of the tank so that such report may be obtained direct;

(f) The date of completion of the plans, the dates of any subsequent revisions and the signature of the person assuming responsibility for the correctness of the plans.

(2) For plants, installed for industrial or commercial usage, having a nominal water capacity of 150 gallons or over and serving an aggregate BTU usage of 150,000 BTUs or over and/or used for dispensing liquefied petroleum gas into other containers, not for resale, a report of installation, giving location and equipment installed, must be made to the *department of buildings, housing and construction* [liquefied petroleum gas bureau, department of insurance], not later than ten (10) days after installation.

Section 31. KRS 236.010 is amended to read as follows:

As used in this chapter,

(1) "Boiler" or "boilers" shall mean and include steam or vapor boilers operating at less than 500 pounds per square inch gauge or at less than 500 degrees Fahrenheit, hot water heating boilers and hot water supply boilers.

(2) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance].

(3) "Department" means the department of *buildings, housing and construction* [insurance].

(4) "ASME" means American society of mechanical engineers.

(5) "Board" means board of boiler rules.

Section 32. KRS 236.020 is amended to read as follows:

(1) In the department of *buildings, housing and construction* [insurance] there shall be a board of boiler rules, which shall hereafter be referred to as the board, consisting of seven (7) members including the commissioner who shall serve as chairman. The other members shall be appointed to the board by the governor; one (1) for a term of one (1) year, one (1) for a term of two (2) years, two (2) for a term of three (3) years and two (2) for a term of four (4) years, or until their successors are appointed and qualified. At the expiration of their respective terms of office they, or their successors identifiable with the same interest respectively as provided in this section, shall be appointed for terms of four (4) years each. The governor may at any time remove any member of the board. Upon the death or incapacity of any member the governor shall fill the vacancy for the remainder of the vacated term with a representative of the same interests with which his predecessor was identified. Of these six (6) appointed members one (1) shall be a practical steam operating engineer of high pressure boilers, or any other representative of owners and users of high pressure boilers within the state; one (1) shall be a representative of the boiler manufacturers within the state; one (1) shall be representative of a boiler insurance company licensed to do business within the state; one (1) shall be a representative of the boilermakers within the state; one (1) shall be a metallurgist specialized in ferrous welding procedures, a practical welder on pressure piping of wide experience or a representative of pipe erecting concerns doing business within the state of Kentucky; and one (1) member shall be a representative of welders or other skilled crafts engaged in erection of pressure piping related to boilers. The board shall meet at least four (4) times each year at the capitol or other place designated by the board. No approval, decision or ruling of the board shall be effective unless supported by the vote of at least (4) members thereof.

(2) The members of the board shall serve without salary and shall receive their actual necessary expenses, incurred while in the performance of their duties as members of the board, to be paid in the same manner as in the case of other state officers.

Section 33. KRS 236.030 is amended to read as follows:
After reasonable notice and opportunity to be heard, the commissioner of *buildings, housing and construction* [insurance], upon advisement by the board, shall by general order, rule or regulation, fix reasonable standards for the safe construction, installation, inspection and repair of boilers and associated pressure piping in this state. Orders, rules and regulations prescribed by the board shall be enforced by the department of *buildings, housing and construction* [insurance].

Section 34. KRS 236.060 is amended to read as follows:
(1) KRS 236.005 to 236.150 shall not apply to boilers or related piping under federal control.
(2) KRS 236.005 to 236.150 shall not apply to the following boilers or related piping:
(a) Boilers located on farms and used solely for agricultural purposes;
(b) Boilers located at any oil refineries;
(c) Steam or vapor boilers used for heating purposes carrying a pressure of not more than fifteen (15) pounds per square inch gauge, and which are located in private residences or in apartment houses of less than six (6) families;
(d) Hot water heating boilers carrying a pressure of not more than thirty (30) pounds per square inch gauge which are located in private residences or in apartment houses of less than six (6) families or hot water supply boilers which are located in private residences or in apartment houses of less than six (6) families.
(e) Any unfired pressure vessels used as containers for liquefied petroleum gases and subject to the jurisdiction of the department of *buildings, housing and construction* [insurance] under KRS chapter 234.

Section 35. KRS 219.350 is amended to read as follows:
No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the department upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the department may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. *All plans for the construction, installation or alteration of buildings shall be forwarded by the department to the department of buildings, housing and construction. Only the department of buildings, housing and construction shall review such plans for conformance with the uniform state building code. The department of buildings, housing and construction shall expedite the review of such plans and return them to the department for human resources for completion of the application process.* Each application for a permit to construct or alter a park shall be accompanied by a permit fee of twenty-five dollars. Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one year from date of issuance.

Section 36. KRS 219.370 is amended to read as follows:
The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.310 to 219.410, which may include but are not limited to, standards for park construction and layout, service buildings, watering stations, sanitary stations, sanitation, site planning, lot size, water supply, sewage disposal, lighting, refuse handling, insect and rodent control, inspections, hearings, issuance, suspension, and revocation of permits, and such other matters as may be necessary to insure a safe and sanitary park operation. *All building construction regulations shall conform to the uniform state building code.* The secretary is empowered to establish separate rules and regulations for mobile home parks and recreational vehicle parks.

Section 37. KRS 227.200 is amended to read as follows:
As used in KRS 227.200 to 227.400, unless the context otherwise requires:
(1) "Commissioner" means the commissioner of *buildings, housing and construction* [insurance];
(2) "Department" means the department of *buildings, housing and construction* [insurance];
(3) "Fire loss" means loss of or damage to property, loss of life or personal injury, by fire, lightning or explosion;
(4) "Owner" means any person who owns, occupies or has charge of any property;
(5) "Property" means property of all types, both real and personal, movable and immovable;
(6) "Rule" or "regulation" means a general order of the commissioner, designed for the prevention of fire loss, which affects or may affect property rights of a designated class of owners or for the prevention of fire loss by certain indicated hazards;

(7) "Order" or "special order" means an order of the commissioner, designed for the prevention of fire loss, which affects or may affect the property rights of a particular owner or designated property;

(8) As used in this section and KRS 227.305, unless the context otherwise requires:

(a) "Physically handicapped person" shall mean a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination and perceptiveness are significantly reduced by aging;

(b) "Public building" shall mean any building constructed, owned or leased by the commonwealth or any political subdivision thereof;

(c) "Public accommodation" shall mean any building defined as a public accommodation by Title II of the Federal Civil Rights Act of 1964, whether or not it affects interstate commerce;

(d) "Facility for physically handicapped persons" shall mean any convenience or device which facilitates the health, safety or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors;

(e) "American National Standard Institute Specifications" shall mean the American National Standard Institute Specifications for Making Buildings and Facilities Accessible to, and usable by, the Physically Handicapped, A 117.1-1961; and

(f) "Remodel" shall mean, with respect to an existing public building or public accommodation, to construct an addition, make substantial repairs, or substantially alter the appearance, design or layout.

Section 38. KRS 227.300 is amended to read as follows:

(1) The commissioner shall promulgate reasonable rules and regulations based upon good engineering practice and principles as embodied in recognized standards of fire prevention and protection, providing for a reasonable degree of safety for human life against the exigencies of fire and panic, and insuring as far as is practicable against fire loss. Such rules and regulations shall be known as the standards of safety. *After promulgation of the uniform state building code, no part of the standards of safety shall establish, in whole or in part, any building code other than the uniform state building code, but the commissioner may supplement the uniform state building code with fire safety regulations designed to operate in conjunction with the code.*

(2) In making such rules and regulations the commissioner shall establish minimum fire prevention and protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for the various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; requirements for buildings of public assembly; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids, oil and gas wells; garages, repair and service shops; application of flammable finishes, explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; dry cleaning and dyeing plants; flammable motion picture film; combustible fibres; airports and airport buildings; hazardous chemicals; rubbish; open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(3) For the purpose of integrating the need for safety from hazards of fire with the other safety needs of infants or preschool children under institutional care, the commissioner shall allow persons who own, manage or are employed by institutions which provide care or education for infants or preschool children to participate in drafting the standards of safety as they apply to such institutions. Such participation shall be by representation of professional associations relating to infant and preschool care, and by representation from other individuals licensed to provide infant and preschool care, on a committee chaired by the state fire marshal or his designate. Such participation shall occur prior to the publication of proposed regulations in the administrative register pursuant to KRS 13.085 and 13.096, but shall not limit any individual's right to use those procedures set forth in KRS Chapter 13 concerning comment on or protest of proposed regulations. All professional associations relating to infant and preschool care shall be notified by the commissioner when the drafting of standards of safety relating to such institutions is commenced and all such professional associations shall be regularly notified of the time and place of any meetings conducted by authorized employes of the department for the purpose of drafting such standards.

(4) The commissioner shall publish guidelines relating to the standards of safety as they apply to day care and preschool child care centers and nurseries, which shall indicate the items inspectors from the office of the state fire marshal will be looking for when they conduct inspections pursuant to the standards of safety. Such guidelines shall be made available to persons who own, operate or manage such centers or nurseries, and shall be designed to enable said persons to anticipate and comply with the requirements of the standards of safety.

Section 39. KRS 227.305 is amended to read as follows:

(1) The *commissioner* [state fire marshal] shall issue regulations relating to the minimum requirements for facilities for physically handicapped persons in all public buildings and public accommodations to be constructed or remodeled after June 21, 1974. In doing so he shall adopt those standards known as the American National Standard Institute Specifications.

(2) After June 21, 1974, no building permit or other official authorization for construction or remodeling of a public building or public accommodation by any person is valid unless the plans and specifications are in compliance with the regulations issued by the *commissioner* [state fire marshal] pursuant to this section and KRS 227.200.

Section 40. KRS 227.330 is amended to read as follows:

(1) Whenever the commissioner finds that any property is not safe as to fire loss, under the terms and conditions of KRS 227.200 to 227.400 and under the regulations promulgated, or that the practices or methods of operation or processes employed or used in connection therewith do not afford adequate protection from loss, under KRS 227.200 to 227.400 or under such regulations, he shall order that additions, improvements or changes be made and such equipment be provided as will reasonably render the property safe.

(2) [Before any such order is made a hearing shall be held in accordance with the provisions of KRS 304.2-320, 304.2-330, and 304.2-360.

(3)] Appeals from any order or action of the commissioner under this section may be taken in the manner prescribed in *subsections (6) through (12) of Section 7 of this Act* [KRS 304.2-370].

Section 41. KRS 227.410 is amended to read as follows:

(1) As used in this section and KRS 227.991:

(a) "Gas-fired heating device" means a gas burning appliance of either a gravity or mechanical circulation type, designed for the heating of air or of water in an enclosed structure.

(b) "Gas-fired room heating device of the unventable type" means a self-contained, free standing, air heating, gas-fired appliance, designed as a space heater for an enclosed structure.

(c) "Enclosed structure" includes a room used for public assembly, educational, instructional, mercantile, office, or residential purposes (including mobile homes, travel trailers and houseboats).

(2) No person, firm or corporation shall sell at retail or wholesale, or offer or expose for sale at retail or wholesale any gas-fired room heating device of the unventable type, or other type which has not been approved as provided in KRS 234.175, except unvented heaters that are built and sold solely for the curing of tobacco, which if sold or used by any person for any other purpose shall subject him to the penalty set forth in KRS 227.991.

(3) No person, firm or corporation shall install in any room or enclosed structure any gas-fired room heating device of the unventable type or other type which has not been approved as provided in KRS 234.175.

(4) No person, firm or corporation may install any gas-fired heating device of the ventable type for use in any room or enclosed structure unless said device is vented in accordance with the provisions of the standards of safety of the department of *buildings, housing and construction* [insurance].

(5) No person, firm, or corporation who may own a gas-fired heating device of the unventable type or a gas-fired heating device of the ventable type, which has not been approved as provided in KRS 234.175, or which does not conform to the provisions of the standards of safety of the department [of insurance] (all of which heating devices are referred to as "proscribed heaters" in this subsection and subsection (6) of this section), or who may occupy an enclosed structure in which such a proscribed heater is installed, shall continue to use or operate said proscribed heater after receipt of a written order described in subsection (6) of this section, and before the conditions contained in said order are met.

(6) Cities of the first or second class may under ordinance duly enacted appoint inspectors or officers who have power to issue written orders directing owners of heaters or occupants of structures in which heaters are installed, to discontinue the use or operation of a proscribed heater and to specify conditions which must be met before said proscribed heater may again be used or operated. Said order may be issued if said authorized person has actual knowledge of the existence of a proscribed heater, and, in the opinion of said authorized person, the continued use or operation of said proscribed heater would constitute a danger to life or health; provided however, no person, agency, firm, or corporation (other than the owner, user, seller or installer of a proscribed heater) shall be liable for civil damages for his or its failure to recognize a proscribed heater, for failure to issue the order described in this subsection, for complying with said order, for assisting with the compliance therewith, or for allowing the continued use or operation of a proscribed heater prior to receipt of said order.

(7) This section shall not apply to liquefied petroleum gas heaters subject to the jurisdiction of the department [of insurance] under KRS chapter 234, except those liquefied petroleum gas heaters sold or installed for residential usage.

Section 42. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(2) "Electrician" means any person who is employed by an electrical contractor and is engaged in the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power;

(3) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(4) "Electrical inspector" means any person certified by the *commissioner of buildings, housing and construction* [public service commission] pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the national electrical code incorporated in *the uniform state building code promulgated pursuant to Section 5 of this Act or* [article I of] the standards of safety of the Commonwealth of Kentucky [or the electrical code of any city or county of the Commonwealth of Kentucky].

Section 43. KRS 227.470 is amended to read as follows:

Any action authorized by the provisions of KRS 227.450 to 227.500 to be accomplished by a city or county may be undertaken *cooperatively by two (2) or more local governments upon a resolution by the governing body of each local government to do so* [by the city and county jointly]. *Such cooperative agreements shall conform to the provisions of KRS Chapter 65.* [The provisions of KRS 227.450 to 227.500 may only be accomplished jointly by city and county where a joint resolution is passed, both by the fiscal court and the governing body of the city and in such instance where a joint resolution fails, the provisions of KRS 227.450 to 227.500 may be accomplished separately by the city and the county.]

Section 44. KRS 227.480 is amended to read as follows:

(1) A city or county *shall, when the uniform state building code as it pertains to the plan review responsibilities of local governments takes effect,* [may] require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. *A city or county may require such permits and inspections prior to the time when the uniform state building code local government plan review responsibilities take effect.*

(2) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be *those adopted in the uniform state building code after said code is promulgated by the board of buildings, housing and construction,* [adopted by the city or the county] and shall have as a minimum standard the requirements of the national electric code [which is incorporated into the state standards of safety]. *These standards* [The standards so adopted by the city or the county] shall be used by the electrical inspector in making his inspections.

Section 45. KRS 227.489 is amended to read as follows:

The *commissioner of buildings, housing and construction* [public service commission] shall require electrical inspectors to be certified. Examinations shall be based on the national electrical code incorporated in *the uniform state building code and* [article I of] the standards of safety prescribed by the *department* [public service commission]. Electrical inspectors who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the national electrical code, for a period of three (3) years, may be certified on the basis of knowledge of this subject and experience [except that in counties containing a city of the first class, electrical inspectors need only to have three (3) years experience to be certified on the basis of knowledge and experience].

Section 46. KRS 227.490 is amended to read as follows:

(1) A city or county may require all electrical contractors and electricians, except those who have had at least five (5) years of experience as an electrical contractor and/or electrician, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all nonresident electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(2) The examining board shall be composed of seven (7) members appointed by the city or the county and in such instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of *each local*

government which is party to the cooperative agreement. Such cooperative agreement shall conform to the provisions of KRS Chapter 65. [the city and the county.] The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors and one (1) utility company official. No appointee shall serve more than two (2) consecutive years.

(3) The members of the examining board shall serve without salary.

(4) In order to administer KRS 227.450 to 227.500, the board may issue and revoke licenses [, hear and settle disputes over code questions and how it shall apply in their area]; conduct and make regulations for conducting examinations of applicants; govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may adopt any other reasonable regulations to administer KRS 227.450 to 227.500.

(5) Electrical contractors and electricians may be required to pay a reasonable fee before issuance of a license to them.

Section 47. KRS 227.491 is amended to read as follows:

(1) An electrical inspector who certifies an electrical installation shall furnish and attach an approval sticker, bearing his signature and certification number in a conspicuous place on the main service entrance equipment. He shall also provide the owner of the electrical installation or his authorized agent with a certificate of approval if the same is requested. A complete record of each inspection shall be kept by the inspector and these records shall be made available to the public service commission upon its request.

(2) No electrical inspector shall attempt to supplant, overrule or otherwise invalidate the judgment of another electrical inspector whose services for a particular building, structure or other project have been solicited by an owner, contractor, municipality or other person without first obtaining express written consent from the designated inspector's office supervising the original inspector. Failure of an electrical inspector to observe this provision shall subject said inspector to review by the *commissioner of buildings, housing and construction* [public service commission] with possible suspension of certification for a period not to exceed one year from date of the *commissioner's* [commission's] ruling.

Section 48. KRS 227.492 is amended to read as follows:

It shall be the duty of the *commissioner of buildings, housing and construction* [public service commission] to investigate alleged misconduct of any electrical inspector certified under KRS 227.489 when, in the opinion of the *commissioner* [commission], there is sufficient evidence to suggest that such misconduct exists. Any party may seek redress from the *commissioner* [public service commission] when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

Section 49. KRS 318.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means department *of buildings, housing and construction* [for natural resources and environmental protection];

(2) "Journeyman plumber" means a person who engages or offers to engage, either as an occupation or otherwise, in the construction, installation, alteration, maintenance, repair, remodeling or removal, and replacement of plumbing under the supervision, direction and responsibility of a master plumber;

(3) "Master plumber" means a person who assumes responsible charge, supervision or direction of journeyman plumbers, plumbers' apprentices and other persons in the construction, installation or alteration of plumbing or who engages in, offers to engage in or advertises or otherwise represents that he is permitted or qualified to engage in the design, planning, superintending, contracting for or responsible charge of plumbing;

(4) "Plumbing" means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire-fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated affluent.

(5) "Public buildings" means any building intended for public use or built with public funds and includes but is not limited to the following: schools, industrial establishments, housing projects, restaurants, food-handling establishments, private clubs, theaters including drive-ins, trailer coach parks, camping areas, hospitals, nursing homes, hotels, motels, tourist courts, rooming houses, boarding houses, and other establishments furnishing public sleeping accommodations;

(6) "Maintenance man" means a person employed to maintain and keep plumbing in good repair;

(7) "Apprentice" means a person in the process of learning the plumbing trade who assists and is under the personal supervision of a licensed master or licensed journeyman plumber;

(8) "Farmstead" means a farm dwelling together with other farm buildings and structures incident to the operation and maintenance of the farm located outside the corporate limits of a municipality and not connected to a public water supply;

(9) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(10) *"Commissioner" means the commissioner of the department of buildings, housing and construction;* ["Secretary" means the secretary of the department for natural resources and environmental protection;]

(11) "Code" means the Kentucky state plumbing code.

Section 50. KRS 318.040 is amended to read as follows:

(1) An applicant for a master or journeyman plumber's license shall:

(a) Be at least eighteen (18) years of age;

(b) Be of good moral character;

(c) Be a citizen of the United States or have filed with the United States district court "first papers" for United States citizenship; and

(d) Possess all the other qualifications that may be prescribed by rules and regulations of the *commissioner* [secretary].

(2) Except as otherwise provided in this chapter, no master or journeyman plumber's license shall be issued except upon a successful passage of an examination as prescribed by the department.

(3) Examinations for a license as a master plumber or journeyman plumber shall be conducted at such times and places as may be fixed by the regulations of the *commissioner* [secretary]. Applicants for an examination shall furnish such information as may be required by the *commissioner* [secretary] and shall receive from the department due notice of the time and place of the examination.

(4) The department shall prepare or cause to be prepared under its supervision examinations consisting of written and practical tests with such questions and tests as in the discretion of the department will determine:

(a) With respect to master plumber's license applicants, that such applicants are qualified in view of the definitions, provisions, and purposes of this chapter to carry on responsibly, reasonably, and competently, the activities which a licensed master plumber is authorized to engage in by this chapter; and

(b) With respect to journeyman plumber's license applicants, their knowledge and competency to carry on the activities which a licensed journeyman plumber is authorized to engage in by this chapter.

(5) The examination papers shall be preserved by the department for a period of one (1) year.

Section 51. KRS 318.066 is amended to read as follows:

(1) No license shall be suspended or revoked by the department unless a hearing has been conducted or an opportunity afforded therefor, at which the holder of the license shall have the right to be present in person or by counsel and to present evidence and be heard in his own behalf. The holder of the license shall be given written notice of the hearing at least thirty (30) days prior to the date thereof. The notice shall state the time and place of the hearing and set forth the ground or grounds for the suspension or revocation in sufficient detail to apprise the holder of the license of the charges preferred against him. Upon failure of the holder of the license to respond to the complaint at or before the time of the hearing thereon, the allegations set forth in the complaint shall be taken by the department as confessed. Proceedings at such hearings shall be in accordance with the rules and regulations of the department.

(2) The department shall appoint and provide for a hearing officer to conduct such hearings. The hearing officer shall have authority to issue subpoenas for the attendance of witnesses and the production of papers and records, administer oaths, schedule hearings and otherwise act in the name and on behalf of the department, but shall not have authority to suspend or revoke licenses. He shall cause to be prepared and shall certify to the department a complete written transcript of the record of each hearing, including all pleas, motions and other papers relating thereto, for consideration and decision by the department. An order of the department suspending or revoking a license shall be effective thirty (30) days after notice of the entry of such order is given the holder thereof.

(3) Each notice required by this section to be given a licensee shall be served by forwarding same by certified mail, return receipt requested or by registered mail, postage prepaid, to the holder at his address as it appears in the records of the department.

(4) A licensee aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice thereof, appeal therefrom to the department [in the manner provided by KRS 311.595]. The decision of the department shall be based on the transcript of evidence prepared by the hearing officer.

(5) A person aggrieved by an order of the department suspending or revoking a license may, within thirty (30) days after notice of such suspension or revocation, appeal therefrom to the circuit court of the county in which the principal office of the department is located by filing a statement of appeal therein together with an appeal bond with good and sufficient surety to secure the payment of any costs charged against him on the appeal. The cost of preparing and certifying the record shall be paid to the department by the appellant and taxed as costs in the action to be paid as directed by the court upon final determination of the action. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court.

(6) Either party aggrieved by a final order entered by the circuit court may appeal to the Court of Appeals as in a civil action.

Section 52. KRS 318.071 is amended to read as follows:

(1) There is hereby created a state plumbing code committee which shall be established within the department *of buildings, housing and construction* [for natural resources and environmental protection] for administrative purposes. The state plumbing code committee shall consist of seven (7) members, one (1) of whom shall be a builder member of the home builders association of Kentucky, one (1) of whom shall be a member of the association of general contractors, one (1) of whom shall be a member of the Kentucky master plumbers association, one (1) of whom shall be a member of the Kentucky society of professional engineers (who shall have a background in sanitary engineering), one (1) of whom shall be a member of the american institute of architects, one (1) of whom shall be a member of the united association of journeyman plumbers, and one (1) of whom shall be a member of the mechanical contractors association. Each member of the state plumbing code committee shall receive no compensation but shall be reimbursed for all necessary expenses. The members of the committee shall be appointed by the governor from lists of three (3) names submitted by the above mentioned organizations.

(2) Each member shall be appointed for and hold office a term of two (2) years or until his successor is appointed and qualified.

(3) At all times in the filling of vacancies of membership on the committee the balance of representation set out in subsection (1) shall be maintained.

Section 53. KRS 318.074 is amended to read as follows:

The committee shall elect from its members one (1) to serve as chairman, one (1) as vice-chairman, and the *commissioner* [secretary of the department for natural resources and environmental protection] or his designee shall serve as ex-officio member of the committee (without a vote) and secretary. The committee shall meet at least quarterly and upon special call by the chairman or the secretary.

Section 54. KRS 318.077 is amended to read as follows:

The committee shall hold hearings, upon adequate notice to affected parties specifying the matters to be considered before the submission to the *commissioner* [secretary] of its suggested amendments to the code; Provided, however, that nothing in this section shall be construed to prohibit the amendment of the code or other regulation by the department after the prior review of committee. Any person aggrieved by any rule, regulation or amendment approved by the department, within 30 days after such action has become final, may appeal therefrom to the circuit court. For the purposes of this section, "persons aggrieved" shall include any person directly or indirectly injured or threatened with injury on account of any such regulation, rule or amendment, whether or not such person was a party to the proceedings out of which the order, rule, regulation or amendment arose.

Section 55. KRS 318.080 is amended to read as follows:

(1) In order to conduct examinations for persons to qualify as licensed master plumbers or journeyman plumbers, the department shall appoint as examiners the following persons to a state plumbers examining committee: An employe of the department and three (3) other persons who shall be licensed either as master or journeyman plumbers. The *commissioner* [secretary for the department for natural resources and environmental protection] shall be an ex-officio examiner and permanent secretary of the committee. With the exception of the issuance of any order involving the revocation, suspension or cancellation of a master or journeyman plumber's license, the *commissioner* [secretary] may delegate to a subordinate employe in the department the power to be present and participate, including the right to vote, as his representative at any meeting, hearing or other proceeding of the state plumbers examining committee. Plumber examiners shall serve at the pleasure of the department.

(2) The department shall appoint assistant plumber examiners who shall be qualified licensed master or journeyman plumbers who shall serve at the pleasure of the department. Assistant plumber examiners shall perform such duties as are delegated to them by the state plumbers examining committee.

(3) Plumber examiners and assistant plumber examiners shall receive no compensation for their services but shall be reimbursed for their necessary traveling expenses.

Section 56. KRS 318.140 is amended to read as follows:

(1) Any *local government* [city of the first, second, or third class] may, by ordinance, enact [a plumbing code, not less stringent in its provisions than] the Kentucky state plumbing code, regulating the construction, installation, or alteration of plumbing within such *local government* [city], providing for the issuance of plumbing installation permits and fixing permit and inspection fees. *Two or more local governments may, by ordinance of each local government, enact the plumbing code as described in this section which shall be jointly enforced and administered by said local governments within their boundaries. Agreements for joint enforcement shall conform to the provisions of KRS Chapter 65.* The department may authorize any such *local government or combination of local governments* [city] to administer, carry out, and enforce the Kentucky state plumbing code and the rules and regulations of the department relating thereto and to issue permits and make inspections thereunder within such *local government* [city], in which event a permit issued under the provisions of the *local government* [city] plumbing code ordinance shall be deemed a permit issued by the department; Provided, however, That inspectors of the department shall have concurrent jurisdiction with *local government* [city] plumbing inspectors in the enforcement in such *local governments* [cities] of the Kentucky state plumbing code.

(2) Any *local government* [city] enacting a plumbing code ordinance may appoint and fix the compensation of *local government* [city] plumbing inspectors. No person shall be eligible for appointment as a *local government* [city] plumbing inspector unless he has at least eight (8) years' experience as a master or journeyman plumber. At the time of his appointment he shall be licensed in accordance with the provisions of this chapter.

(3) Nothing contained in this chapter shall be construed as prohibiting a *local government* [city] from collecting occupational license fees from persons, firms or corporations engaged in the plumbing business.

Section 57. KRS 67.380 is amended to read as follows:

The fiscal court of any county shall have authority, by order or resolution, to adopt, [and modify or amend from time to time,] and to enforce, regulations governing the construction, reconstruction, remodeling, repair and maintenance of buildings, *pursuant to the provisions of Section 6 of this Act* [other than buildings for agricultural purposes located upon premises that are used solely for agricultural purposes].

Section 58. KRS 67.410 is amended to read as follows:

(1) The fiscal court of any [such] county [containing a city of the first or second class] may appoint a qualified and competent person to administer such regulations. His official title shall be "Building Inspector of .... County, Kentucky." His salary shall be fixed by the fiscal court, and paid out of the county levy. He shall have such deputies and assistants as the fiscal court deems necessary, and their salaries shall likewise be fixed by the fiscal court and paid out of the county levy. The fiscal court shall also pay out of county funds the necessary expenses of his office. The fiscal court may contract with individuals or corporations for the performance of technical or scientific services required for the proper enforcement and administration of its building regulations.

(2) No person shall build, erect, construct, reconstruct, remodel, relocate, alter or repair any building within the county without first obtaining a building permit from the building inspector.

(3) The fiscal court shall establish a system of reasonable fees to be charged every applicant for such permit, *but such fees shall not exceed the cost of the service provided.*

(4) Any person aggrieved by any ruling, order, or decision of such building inspector may appeal *using the procedures provided in Section 7 of this Act* [to the circuit court and to the Court of Appeals].

Section 59. KRS 84.240 is amended to read as follows:

(1) The city, through its officers and agents, may:

(a) Enter into and examine, at all reasonable times, within the city limits, any building, premises or vehicle to ascertain its condition as to healthfulness, cleanliness and safety;

(b) Take down and remove any building, wall or superstructure, that is or may become dangerous, or require the owner to remove or put it in a secure and safe condition at his own expense;

(c) Compel the consumption of smoke, and make such regulations as are necessary to prevent it from becoming deleterious and offensive to health.

(2) The city, through its officers and agents *and pursuant to the provisions of subsection (1) of Section 6 of this Act,* shall provide for the safe construction, inspection and repair of all private and public buildings in the city.

Section 60. KRS 85.190 is amended to read as follows:

The common council may, by ordinance:

(1) Provide for the prevention and extinguishment of fires, and organize, establish and maintain fire companies;

(2) Regulate the storage of combustible, explosive or inflammable materials and the use of heating and lighting appliances;

(3) Regulate or suppress the use and sale of firecrackers, fireworks and toy pistols;

(4) Regulate or prohibit the erection of wooden buildings in such parts of the city as may be deemed proper, and provide for the removal of any such building at the cost of the owner, when erected or continued contrary to ordinance;

(5) Prohibit the construction of unsafe buildings or buildings without adequate means of escape in case of fire;

(6) Regulate *pursuant to the provisions of subsection (1) of Section 6 of this Act* the construction of all buildings in the city, and provide for the construction of fire escapes;

(7) Provide for the inspection of buildings;

(8) Impose penalties upon the owner, occupant or agent in charge of any house, wall, sidewalk or other structure that is dangerous or detrimental to the public, unless, after due notice fixed by ordinance, it is removed or repaired, and may remove or repair at the expense of the owner any such structure allowed to remain contrary to ordinance.

Section 61. KRS 56.480 is amended to read as follows:

The department may appoint qualified licensed engineers and qualified graduate engineers may be appointed for a period not to exceed one (1) year without obtaining a license, who shall perform duties delegated to them from time to time by the commissioner of finance. The department shall prepare necessary plans and specifications, shall investigate and make studies of the comparative need and demand for acquiring lands, or for the construction or reconstruction or structural maintenance of buildings, or the purchase, installation or construction of equipment, facilities or furnishings incidental or pertaining thereto, and shall make the estimates of cost required in connection with or incidental to the development, purchase, acquisition or construction of the foregoing. The engineering staff shall give technical assistance and perform other duties the commissioner of finance requires. *Review of construction plans for conformance with the uniform state building code shall be conducted by the department of buildings, housing and construction.*

Section 62. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than $25,000 without first securing the approval of the executive department for finance and administration.

(2) The state agency seeking such approval shall submit to the executive department for finance and administration a general description of the proposed project, with such detailed information as the department may require. *Review of construction plans for conformance with the uniform state building code shall be conducted by the department of buildings, housing and construction.* The department *for finance and administration* shall not approve any such project requiring its approval in any instance where it finds that the project is not needed, or that the proposed method of financing is not sound, or in cases where the project will exceed the amount of the funds available therefor, or the work contemplated will be insufficient to accomplish the purpose of the project, or that after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the state treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section that the work is to be done by employes of the agency.

(3) The finding of the executive department for finance and administration shall be final except in cases where the issuance and sale of bonds is proposed, in which cases the department shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the executive department for finance and administration determines will exceed $25,000, shall be contracted for on a competitive bid basis, and the execution of such contracts must be approved and authorized by the department. When a capital construction project has been approved as provided in this section, in whole or in part, the department shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction and handle the financial negotiations on behalf of the requesting state agency, or with prior written approval, the department may authorize a state agency to do so with delegated authority of the department.

(5) A capital construction project, the total cost of completion of which the executive department for finance and administration determines will not exceed $25,000, may be performed by the regular employes of the requesting agency; provided, however, that the project must be approved and authorized by the department. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the department as defined in KRS Chapter 45.

(6) This section does not apply to capital outlays to the bureau of highways for roads and bridges.

(7) This section shall not apply to capital outlays by the department of corrections for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the department of corrections shall be approved and authorized by the executive department for finance and administration.

Section 63. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the commission on fire protection personnel standards and education, hereinafter called "commission" which shall be attached to the state fire marshal's office in the department of *buildings, housing and construction* [insurance for administrative services].

(2) The commission shall be composed of ten (10) members, residents of the state of Kentucky, appointed by the governor. Such members shall be persons well qualified by experience or education in the field of fire protection or related fields. The superintendent of public instruction and the state fire marshal shall serve as ex officio members of the commission. The volunteer fire departments shall be represented by one appointee. Such appointive members shall be appointed for a term of four (4) years, provided, however, that of the members first appointed, four (4) shall be appointed for a term of two (2) years, three (3) for a term of three (3) years, and three (3) for a term of four (4) years. Any member chosen by the governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(3) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions hereunder.

Section 64. KRS 95A.050 is amended to read as follows:

In carrying out its duties and responsibilities the commission shall have the following additional duties:

(1) To meet at such times and places in the state of Kentucky as it deems proper; meetings shall be called by the chairman upon his motion, or upon the written request of five (5) members;

(2) To contract with other agencies, public or private, or persons, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports as it may require to cooperate with city, county, state and federal agencies in training programs;

(3) To recommend to the commissioner of *buildings, housing and construction* [insurance] for promulgation reasonable rules and regulations relating to fire protection personnel.

SECTION 65. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act, or of the uniform state building code, or any directive or order issued pursuant thereto shall be fined not less than ten dollars ($10) nor more than one thousand dollars ($1,000). Each day the violation continues shall constitute a separate offense.

Section 66. KRS 17.065 is repealed; KRS 67.390 and 67.400 are repealed effective August 31, 1979.

Section 67. Whereas it will be necessary to coordinate the implementation of certain procedures specified in this Act with the termination of other procedures found in existing law, the following sections of this Act shall take effect on the dates specified: Sections 15, 21, 24 through 34, 37 through 56, July 1, 1978; Sections 16, 57 through 60, August 31, 1979; Sections 17 through 20, 22, 23, 35, 36, 61 and 62, February 28, 1980.

The Committee on Rules reported **HB 18, HB 26, HB 46, HB 69, HB 71, HB 151, HB 172, HB 256, HB 281, SB 23,** and **SB 24** have been posted for passage in Orders of the Day, February 6, 1978.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 332.**

Highways and Traffic Safety: **HB 59.**

The Speaker vacated the Chair. Speaker Pro Tempore Clapp presiding.

Calendar

HB 88, HB 89, HB 114, HB 147, HB 241, HB 245, HB 285, HR33, **HB 43, HB 173, HB 42, HB 137, HB 165, HB 166, HCR 7, HB 150, HB 156, HB 171, HB 182,** HR 27, **HR 28,** and **HR 36** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Carpenter moved that he be recorded as voting "yea" on **HB 16.** Agreed.

Representative R. Smith moved the adoption of the following Legislative Citation No. 25:

The House of Representatives hereby congratulates Henry and Rebecca Gray on their illustrious sixtieth Wedding Anniversary, February 9, 1978. The beautiful years of love sharing, joy giving, and dreams come true make this a grand and glorious celebration. The sixtieth year symbolizes the diamond, characterizing the brilliance of their wonderful years of marriage with lovely dividends of love, beauty, and happiness. May their love continue to blossom into a life of beauty and their home a castle of joy and delight. God bless your years ahead with tender ties of lasting love and happiness. Our best wishes always. (Sponsored by Representative R. Smith)

Agreed.

Representative Tobin moved the adoption of the following Legislative Citation No. 26:

The House of Representatives congratulates Jim Wooley, Director and the Staff at WHIC Radio Station in Hardinsburg, Kentucky for their superlative performance during the recent devastating weather and the snow crisis. They exemplified the great humanitarian spirit as evidenced by long hours and maximum sacrifices. The continuous and comprehensive coverage was most informative and heart warming. We salute you for your outstanding services and dedication. (Sponsored by Representative Tobin)

Agreed.

Representative Wilborn filed Floor Amendment No. 1 to **HB 151.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 1** and **HB 53** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 49 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 1 to **HB 49:**

Amend printed copy of **HB 49,** page 2, line 4, by inserting after "county attorney" the following: ", who shall certify that there is no district judge, circuit judge or trial commissioner within the county."

Agreed.

Representative Fitzgerald moved passage of **HB 49** as amended.

On the roll call the vote was yeas 83-Adams, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McNutt, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Wright, Yates. Nays 0.

HB 49 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 49** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 212 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the following Floor Amendment No. 1 to **HB 212:**

Amend printed copy of **HB 212,** page 7, line 21, by adding the following after "Act.":

"Continuation of the life of an agency, with or without modification, shall not be deemed to give continued effect to any administrative regulation adopted by the agency prior to such continuation. The regulations of each agency that is continued, with or without modification, shall expire on the termination date specified in Section 1 of the Act unless the agency resubmits such regulations for review and filing in accordance with KRS Chapter 13."

Agreed.

Representative Mann moved the passage of **HB 212** as amended.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Richards, Riner, Robinson, Romines, Siemens, F. Smith, Thomas, Tobin, Trevey, Weinberg, Wells, Wilborn, Williams, Wright, Yates. Nays 18-W. Allen, Bruce, Foster, Gay, Hancock, Head, Layman, McBee, Morris, Pearman, Rattliff, B. Richardson, P. Richardson, Schmidt, R. Smith, Stone, Van Horn, White.

HB 212 as amended was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 212** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Mann moved that **HB 1** be recommitted to the Committee on Business Organizations and Professions. Agreed.

The Speaker resumed the Chair.

Announcements

The Clerk announced a meeting of the Committee on State Government, February 8, 1978, Room C, thirty minutes after adjournment.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 398, by Representatives Priddy, Holloway, Burch, Dietz, Gay, Gray, Guenthner, Haering, Hines, Isler, May, Romines, R. Smith, Williams, Yates: AN ACT relating to county police force discipline.

HB 399, by Representatives Priddy, Holloway, Bennett, Burch, Dietz, Donnermeyer, Gray, Guenthner, Haering, Hines, Imes, Isler, Mann, May, Maynard, O'Brien, Riner, Romines, R. Smith, Williams and Yates: AN ACT relating to the county employes retirement system.

HB 400, by Representatives Priddy, Holloway, Bennett, Burch, Dietz, Donnermeyer, Gray, Haering, Hines, Imes, Isler, Mann, May, Maynard, O'Brien, Riner, Romines, R. Smith, Williams and Yates: AN ACT relating to the county employes' retirement system.

HB 401, by Representatives Dietz, Priddy, J. Allen, Bendl, Bennett, Beshear, Blandford, Brown, Burch, Burnette, Crupper, Cyrus, Donnermeyer, Foster, Gay, Gray, Guy, Hines, Holloway, Isler, Johnson, Kenton, LeMaster, Mann, Maynard, Petty, Richards, Romines, Stone, Thomas, Van Horn, White, Wright, and Yates: AN ACT relating to police and fire departments.

HB 402, by Representatives Wright, Kleier, Fitzgerald, and Thomas: AN ACT relating to children.

HB 403, by Representatives Yates, Siemens, Bennett, Burch, Davenport, Gay, Holloway, Lindsay, Maynard, Priddy, Riner and Van Horn: AN ACT relating to court clerks.

Announcements (Continued)

The Clerk announced a meeting of the Committee on Highways and Traffic Safety on Wednesday, February 8, 1978, for a discussion of **HB 59.**

The Clerk announced a meeting of the Committee on Rules five minutes after adjournment.

Adjournment

Representative B. Richardson moved that the House adjourn until 3:00 p.m., Monday, February 6, 1978.

On the roll call the vote was yeas 63-Adams, Arnold, Bendl, Bennett, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kleier, LeMaster, List, Mann, May, McBee, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, Riner, Robinson, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Wilborn, Williams, Worthington, Yates. Nays 10-DeFalaise, Deskins, Fitzgerald, Gray, Guenthner, Imes, Overstreet, Priddy, P. Richardson, Schmidt.

The motion to adjourn was adopted.

MONDAY, FEBRUARY 6, 1978

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Representative Albert Robinson.

The roll was called. All present except Representatives W. Allen, Benson, Burnette, Patrick, and Siemens.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 3, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 404, by Representative B. Richardson: AN ACT relating to sales of merchandise.

HB 405, by Representative B. Richardson: AN ACT relating to state personnel.

HB 406, by Represntative Blandford and J. Allen: AN ACT relating to tobacco.

Senate Message

Announcing passage of **SB 22, SB 93, SB 102, SB 107, SB 123, SB 131, SB 153, SB 162, HR 34,** and **HB 184.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred to the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 101.**

Appropriations and Revenue: **HB 397.**

Banking and Insurance: **SB 91, SB 95.**

Business Organizations and Professions: **SB 132.**

Cities: **HB 391, HB 392, HB 401.**

Counties and Special Districts: **HB 393, HB 398, HB 399, HB 400.**

Health and Welfare: **SB 166.**

Judiciary-Statutes: **HB 395, HB 396, HB 402.**

Public Utilities and Transportation: **HB 394, HB 403, SB 74.**

State Government: **SB 78, SB 167.**

Report of Committees

The Committee on Rules reported **HB 37, HB 122, HB 132, HB 143, HB 159, HB 185, HB 282,** and **SB 29** have been posted for passage in Orders of the Day, February 7, 1978.

The Committee on Rules reported **HB 234** has been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 250, HB 318.**

Education: **HB 364.**

Highways and Traffic Safety: **HB 308.**

Public Utilities and Transportation: **HB 194.**

Agriculture and Natural Resources: **HB 345, HB 359, HB 367.**

Judiciary-Statutes: **HB 355, HB 334, HB 298.**

Calendar

HB 44 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Boswell moved that all properly filed co-sponsors requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blandford, **HB 271;** Representative Clark, **HR 13;** Representative Cyrus, **HB 318;** Representative Davenport, **HB 327;** Representative Donnermeyer, **HB 212;** Representative Craddock, **HB 283, HB 284, HB 332;** Representative Guenthner, **HB 318, HB 403;** Representative Guy, **HR 33, HB 345;** Representative Hines, **HB 334;** Representative O'Brien, **HB 403;** Representative Pearman, **HB 403;** Representative F. Smith, **HB 143, HB 345;** Representative Wright, **HB 403.**

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill: Representative Bruce, **HB 265.**

Representative Fitzgerald moved that his name be withdrawn as sponsor of **HB 320,** thereby withdrawing **HB 320** since he is the primary sponsor of the bill. Agreed.

Representative Hancock moved the adoption of the following Legislative Citation No. 7:

The House of Representatives hereby congratulates Coach Charles Strausburger and his outstanding basketball team of Frankfort High School for their superlative performance. Three championships, an 18-1 record, and an Invitation to the Prestigious Louisville Invitational Basketball Tournament are great dividends enjoyed from hard work, a great team effort, a high level of competition and competency. Coach Strausburger's philosophy of a "New Day and a New Era" for Frankfort High School was well dramatized. Their triumphant performance is a great tribute to them, Frankfort High and the community. We applaud Coach Strausburger and his fine basketball team for their great dedication. (Sponsored by Representative Hancock)

Agreed.

Orders of the Day

HB 281 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 281** be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Jones, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-DeMarcus, Donnermeyer.

HB 281 was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 281** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 256 taken from Orders of the Day and ordered read as length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved that **HB 256** be passed.

On the roll call the vote was yeas 77-Adams, J. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Kenton, Kidd, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Wells, White, Wilborn, Williams, Wright, Yates. Nays 9-Beshear, Clarke, Dawahare, Lindsay, Nett, B. Richardson, Van Horn, Weinberg, Worthington.

HB 256 was passed and the title agreed to.

Representative Imes moved that the vote by which **HB 256** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 151 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HB 151** be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Layman, Lindsay, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 0.

HB 151 was passed and the title agreed to.

Representative White moved that the vote by which **HB 151** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 184** and **HJR 34** had been examined and found correctly enrolled. **HB 184** and **HJR 34** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

SB 23 taken from Orders of the day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 23** be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthener, Guy, Haering, Hancock, Head, Hines, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 23 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 23** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 24 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 24** be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 6-Donnermeyer, Fitzgerald, Gray, Jones, Mann, Pearman.

SB 24 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 24** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 26 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 26** be passed.

On the roll call the vote was yeas 77-J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Isler, Johnson, Jones, Kenton, Kidd, Layman, LeMaster, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Worthington, Wright, Yates. Nays 2-Holbrook, Overstreet.

HB 26 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 26** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 46, with Committee Substitute and Committee Amendment to the Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative R. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 46.** Agreed.

Representative Lindsay moved the adoption of the Committee Amendment to the Committee Substitute to **HB 46.**

Representative Lindsay moved that **HB 46,** by way of Committee Substitute, be laid on the Clerk's Desk.

On the roll call the vote was yeas 82-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boswell, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington. Nays 0.

The motion that **HB 46,** by way of Committee Substitute, be laid on the Clerk's desk was adopted.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative Blythe moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 407, by Representative Hancock: AN ACT relating to dentists.

HB 408, by Representative Riner: AN ACT relating to property stolen or damaged.

HB 409, by Representative Williams: AN ACT relating to consumer reporting agencies.

HB 410, by Representative DeMarcus: AN ACT relating to elections.

HB 411, by Representatives DeFalaise, Dietz, Isler and Petty: AN ACT relating to unlawful imprisonment.

HB 412, by Representatives Adams, Holbrook and Schmidt: AN ACT relating to the membership of boards of education.

HB 413, by Representative Little: AN ACT relating to highway construction.

HB 414, by Representative Little: AN ACT relating to jury duty.

HB 415, by Representatives Blythe, List and May: AN ACT relating to sales and use tax.

HB 416, by Representatives Nett, Wells and DeMarcus: AN ACT relating to state archives and records.

HR 40, by Representative DeMarcus: A RESOLUTION amending Rules 38 and 39 of the Rules of the House of Representatives.

HR 41, by Representative Blythe: A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives of the General Assembly.

HJR 42, by Representative Dawahare: A JOINT RESOLUTION concerning flood damage relief for Kentucky cities and counties and making an appropriation therefor.

Announcements

Representative LeMaster filed Floor Amendment No. 1 to the Committee Substitute to **HB 160.**

Representative Lindsay filed the following corrected Committee Amendment to **HB 46:**

Amend printed copy of Committee Substitute for **HB 46** on page 4, line 15, to delete "Shall" and to insert in lieu thereof "May"

and on page 4, line 15, delete "mandatory and shall not be"

and on line 16 following the word "Suspended" add "at the discretion of the court"

The Clerk announced a meeting of the Committee on Rules five minutes after adjournment.

Adjournment

Representative B. Richardson moved the House adjourn until 2:00 p.m., Tuesday, February 7, 1978.

On the roll call the vote was yeas 57-Arnold, Bendl, Bennett, Beshear, Boswell, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Hines, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, Marcum, May, Maynard, McKinney, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, Stewart, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, Worthington, Yates. Nays 4-Deskins, Fitzgerald, Gray, Guenthner.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 7, 1978

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Ron Stone, Central Baptist Church, Wincehster, Kentucky.

The roll was called. All members present.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 6, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 417, by Representatives Deskins, Overstreet and Little: AN ACT relating to mining.

HB 418, by Representatives Fitzgerald and McBee: AN ACT relating to land surveyors.

HB 419, by Representative Williams: AN ACT relating to landlord-tenant relations.

HB 420, by Representative Williams: AN ACT relating to corrupt practices.

HB 421, by Representatives Isler, Dietz and Petty: AN ACT relating to the teachers' retirement system and making an appropriation therefor.

HB 422, by Representative Beshear: AN ACT relating to special registration plates and parking privileges for the handicapped.

HR 43, by Representatives Guenthner, Riner, DeMarcus, Burnette and Holloway: A RESOLUTION opposing ratification of the Panama Canal Treaty.

Report on Enrolled Bills

HB 184 and **HJR 34** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Senate Message

Announcing passage of **SB 16, SB 32, SB 127,** and **HB 22.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 406, SB 102.**

Appropriations and Revenue: **HB 415, HJR 42.**

Banking and Insurance: **SB 93, SB 107.**

Business Organizations and Professions: **HB 404, SB 123.**

Education: **HB 412, SB 22.**

Elections and Constitutional Amendments: **HB 410.**

Health and Welfare: **HB 407.**

Highways and Traffic Safety: **HB 413.**

Judiciary-Courts: **HB 414, SB 153.**

Judiciary-Statutes: **HB 408, HB 411, SB 131, SB 162.**

Labor and Industry: **HB 409.**

State Government: **HB 405, HB 416, HR 40, HR 41.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 253, SB 117, HB 234.**

Judiciary-Courts: **SB 50, SB 64.**

Agriculture and Natural Resources: **HB 406, SB 1, SB 84, SB 101, SB 68, HB 382.**

Judiciary-Statutes: **HB 107.**

Elections and Constitutional Amendments: **HB 342, SB 17.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 109.**

Elections and Constitutional Amendments: **HB 56.**

Report of Committees

The Committee on Rules reported **HB 110, HB 140, HB 160, HB 201, HB 271, HB 42, HB 88, HB 89, HB 114, HB 137,** and **SB 67** have been posted for passage in Orders of the Day, February 8, 1978.

The Committee on Banking and Insurance reported **HB 208** and **HB 299** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 208, AN ACT relating to group health insurance policies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group or blanket health insurance policies and certificates issued thereunder providing coverage on an expense incurred basis shall contain a provision, approved as to form by the commissioner, requiring the coordination of benefits with any other group health or blanket health insurance policies or contracts.

(2) The commissioner shall make reasonable rules and regulations necessary to implement the provisions of subsection (1) of this section.

SECTION 2. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All group service or indemnity type contracts, plans or policies issued by any nonprofit corporation subject to the provisions of this subtitle shall contain a provision, approved as to form by the commissioner, requiring the coordination of benefits with any other group health insurance policies or contracts.

(2) The commissioner shall make reasonable rules and regulations necessary to implement the provisions of subsection (1) of this section.

SECTION 3. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All contracts or certificates describing health benefits delivered or issued for delivery by a health maintenance organization shall contain a provision, approved as to form by the commissioner, requiring the coordination of benefits with any other group health insurance policies or contracts.

(2) The commissioner shall make reasonable rules and regulations necessary to implement the provisions of subsection (1) of this section.

HB 299, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 5, IS CREATED TO READ AS FOLLOWS:

(1) No health insurance contracts, plans or policies delivered or issued for delivery in the state shall provide coverage for elective abortions except by an optional rider for which there must be paid an additional premium. For purposes of this section, an "elective abortion" means an abortion for any reason other than to preserve the life of the female upon whom the abortion is performed.

(2) This section shall be applicable to all contracts, plans or policies of:

(a) All health insurers subject to subtitle 17 of KRS Chapter 304; and

(b) All group and blanket health insurers subject to subtitle 18 of KRS Chapter 304; and

(c) All non-profit hospital, medical, surgical, dental and health service corporations subject to subtitle 32 of KRS Chapter 304; and

(d) All health maintenance organizations subject to subtitle 38 of KRS Chapter 304; and

(e) Any provision of medical, hospital, surgical and funeral benefits and of coverage against accidental death or injury, when such benefits or coverage are incidental to or part of other insurance described in KRS 304.5-070(1).

Section 2. This Act shall become effective January 1, 1979.

The Committee on Counties and Special Districts reported **HB 29,** with Committee Amendment attached thereto, and **HB 51,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 29, AN ACT relating to counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The territory of a county may be divided into service districts by the fiscal court. Each service district shall constitute a separate tax district within which the county government shall, upon receipt of a petition signed by a majority of the registered voters in the district as of the last general election, levy and collect taxes in accordance with the kind, type, level, and character of the services provided by the county government in each of these service districts. The governing body of the county government may abolish or alter existing service districts.

The Committee Amendment to **HB 29** is as follows:

Amend printed copy of **HB 29,** page 1, line 6, after the word "government" delete the word "shall" and insert in lieu thereof the word "may".

HB 51, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the oversight of special districts by the counties in which such districts operate will be in the public interest, in that such oversight will tend to eliminate wasteful duplications, result in coordination between various units of local government, guarantee the accountability of special districts, and ultimately result in a higher degree of service to the general public.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) The words "district" or "special district" mean a quasi municipal corporation or political subdivision created to perform a limited number of public functions within a limited and prescribed area of jurisdiction. It includes all such entities within the state except a city, a county, a school district, any entity whose jurisdiction comprises the entire area of two (2) or more counties, or any agency, authority, or board created or established by the legislative body of a city and/or county or the legislative bodies of cities and/or counties.

(2) The words "taxing special district" mean a special district as herein defined which falls within the meaning of Section 157 of the Constitution.

(3) The word "charter" means a document which enumerates the powers and responsibilities of the special district; describes the service area; describes the officers, including their number, function, and required bond; and provides for the administration of the affairs of the special district.

(4) The words "fiscal court" shall include the legislative body of the urban county government in counties having an urban county form of government.

(5) The words "county judge/executive" shall include the chief executive of the urban county government in counties having an urban county form of government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A special district, upon certification of its charter by the fiscal court of the county in which it may be located in whole or in part, may perform any governmental function approved by charter which is not prohibited by statute or the Constitution. These governmental functions include: protection of public health and safety; development of economic and industrial resources; provision of public utilities, libraries and other educational services; protection and enhancement of land, water, air and wild life resources; and, collection and disposal of liquid and solid wastes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be approved by the fiscal court of the county in which it may be located only upon satisfaction of the following conditions:

(1) Persons desiring to form a taxing special district shall present to the fiscal court a petition signed by ten (10) per cent of the registered voters as of the last general election living in the area to be served. Persons desiring to form other special districts shall present to the fiscal court a petition signed by twenty-five (25) per cent of the registered voters as of the last general election living in the area to be served. Each petition shall be accompanied by:

(a) A charter for the special district;

(b) A plan of service, which may be prepared by an area development district or other qualified public or private agency, showing such of the following as may be germane to the purposes for which the district is being formed:

1. Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

2. Description of the service area including but not limited to the population to be served, the date of initial service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

3. Three (3) to five (5) year projection of cost versus revenue;

4. Justification for formation of the special district including but not limited to the location of nearby governmental and nongovernmental providers of like services and documentation by nearby governmental units stating why they cannot or will not provide the proposed service at least as efficiently as the proposed special district;

5. Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other analysis which, in the judgment of the fiscal court, bear on the necessity and means of providing the proposed service.

(2) The fiscal court shall send the proposed plan of service to all planning commissions, cities, area development districts, or state agencies within whose jurisdiction the proposed service area is located.

(3) The fiscal court shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall publish notice according to the provisions of KRS Chapter 424.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection 2 of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the initial date of hearing but must render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve, disapprove, or approve with modification, the formation of the special district to provide service as described in the charter and plan of service, and to exercise the powers so described in the charter or plan of service provided for in this Act, or granted by specific statute which may apply to the special district being formed.

(7) If the fiscal court approves the formation of a special district other than a taxing special district, the fiscal court shall certify the charter.

(8) If the fiscal court approves the formation of a taxing special district, a certification petition must be submitted to the fiscal court within one hundred twenty (120) days of fiscal court action. The certification petition shall be signed by a majority of the registered voters as of the last general election in the proposed district area.

(9) Upon receipt of the certification petition of a taxing special district, the fiscal court shall certify the charter.

(10) For taxing purposes the effective date of the tax levy shall be January 1 of the year following the certification of the charter of the taxing special district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A valid petition for the creation of a special district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court of each county concerned to form a (insert type of special district) for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the district.)"

(2) The petition shall contain the name and address of each petitioner.

(3) The certification petition for a taxing special district shall contain a clear statement of the maximum amount of tax to be levied for support of the district.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be amended, two or more special districts may be merged or the area or functions of a special district may be expanded or contracted by a vote of the fiscal court after public notice in accordance with KRS Chapter 424 and a public hearing. Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the merger or alteration of a district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or state agency meeting the criteria of Section 4(2) of this Act, or any citizen living in the proposed area of the special district may appeal the decision of the fiscal court on the formation of a special district or the modification of its charter to the circuit court. The circuit court may affirm the action of the fiscal court, or may deny all or part of the action of the fiscal court and order approval or disapproval of the special district, but may deny the action of the fiscal court only if such decision is found to be arbitrary or capricious. The circuit court may not insert provisions in a charter which were not considered in the original plan of service or in the plan of service as modified during the fiscal court hearing.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) By resolution, the fiscal court may dissolve, after notice in accordance with KRS Chapter 424 and a public hearing, a district it or the circuit court has approved if:

(a) The special district has not provided service as described and within the time specified in the charter and plan of service and cannot justify such deficiency at the hearing; or

(b) There has been escalation in the cost of providing service as described in the charter and plan of service, and the special district cannot justify such escalation at the hearing; or

(c) The fiscal court desires to provide the service, or desires a city meeting the criteria of Section 4(2) of this Act to provide the service, the city agrees to provide such service, and it would be to the benefit of the users of such services to have the fiscal court or the city provide such services; or

(d) Twenty-five (25) per cent of the registered voters of the special district as of the last general election in the county sign a petition for the dissolution of the special district. The fiscal court shall consider the need for the dissolution and may adopt a resolution ordering the dissolution of the district. The petition for dissolution of the district shall meet the following criteria:

1. It shall be in substantially the following form: "The following registered voters in (insert the name of the county) favor dissolving the (insert the name of the district) for the following reasons: (A sufficient petition shall include a brief list in layman's terms of the reasons for the dissolution of the district.)"

2. It shall contain the name and address of each petitioner and shall be presented to the fiscal court within ninety (90) days after having been signed by the first petitioner.

(2) Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of a special district.

(3)(a) If, at the time the fiscal court resolves to dissolve a special district, the special district has contractual obligations which cannot be satisfied through the liquidation of the special district's assets or if the fiscal court is unwilling to assume the contractual obligations of the special district, the resolution for dissolution shall have no legal effect until such contractual obligations are satisfied. The board shall continue to operate to satisfy its contractual obligations but shall not incur additional contractual obligations without fiscal court approval. Upon the satisfaction of all contractual obligations the special district shall be legally dissolved. All assets of the special district shall become the property of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of property owners of the special district.

(b) If, at the time the fiscal court resolves to dissolve a special district, the contractual obligations of the special district can be satisfied through the liquidation of the assets of the special district or if the fiscal court is willing to assume the contractual obligations of the special district, the special district shall be legally dissolved upon resolution of the fiscal court. All assets and liabilities of the special district shall become the assets and liabilities of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of the property owners of the district.

(4) The special district, a city, or a state agency meeting the criteria of Section 4(2) of this Act, or a citizen residing in the district may appeal the action of the fiscal court under subsection (1) of this section, to the circuit court. The circuit court shall review de novo the decision of the fiscal court and may reverse the action of the fiscal court only if such action of the fiscal court under the criteria of subsection (1) of this section is deemed to have been arbitrary or capricious.

(5) Any special district, whether created prior to or after the effective day of this Act, which for the immediately prior five (5) consecutive years fails to provide the service for which it was created, shall be legally dissolved by the fiscal court unless the fiscal court takes affirmative action to continue its existence. The district shall no longer have the authority to provide such service, or to prevent other parties from providing that service or other services which affect that service. The special district shall be dissolved as provided in subsection (3) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any special district may by charter provide for the election or appointment of its directors, officers, and supervisors. In the absence of such provisions, all special district officers shall be appointed or removed by the county judge/executive in accordance with KRS 67.710 except as otherwise provided by statute. In no instance shall an elected official other than the county judge/executive serve as an officer of a special district.

(2) Officers of special districts which lie in more than one (1) county shall be appointed by the respective county judges/executive in proportion to the population in each county residing in the special district to the total population of the special district.

(3) The terms of special district officers shall be staggered so that in no year will the total membership change.

(4) The compensation, if any, of special district officers except the county judge/executive shall be specified in the charter. The county judge/executive shall receive no salary or per diem.

(5) Notwithstanding the provisions of KRS 61.080, the county judge/executive or one of his designees shall serve as an ex-officio member of the board of all special districts in his county. In the case of special districts which lie in more than one (1) county, the respective county judges/executive or their designees shall alternate as an ex-officio member on a yearly basis.

(6) Special districts shall pay any bond on officers, except that prior to the receipt of income by a special district, the county may pay the bond subject to reimbursement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The powers of a special district shall be enumerated in its charter and shall include but not be limited to the following:

(1) Sue and be sued;

(2) Own and sell or convey property;

(3) Exercise the power of eminent domain in accordance with the eminent domain act of Kentucky, if such power is granted by charter. Special districts which are not special taxing districts, shall exercise such power through the fiscal court;

(4) Issue bonds in accordance with the provisions of KRS Chapter 58 if such power is granted by charter or statute. All bond issues shall be reported to the state local finance officer in accordance with KRS 66.045;

(5) Make assessments in accordance with the provisions of KRS Chapter 107 if such power is granted by charter or statute;

(6) Set service charges or user fees as provided by charter or statute in accordance with Section 15 of this Act;

(7) With fiscal court approval, apply for and accept grants or aid from the state or federal government or any agency thereof to carry out the purpose of the special district;

(8) Tax to the extent of its taxing powers as granted by charter or statute. Taxes shall be collected by the sheriff in the same manner as county and state taxes are collected, and the sheriff shall receive two (2) per cent of the amount collected as compensation for such service.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to acquisition of title to any land by a special district, other than a taxing special district, authorized by its charter to acquire land, the special district shall submit to the fiscal court, or fiscal courts, if it is a special district which lies in more than one (1) county a statement indicating its intention to acquire the land. The statement shall be in the form of a resolution adopted by the governing body of the district, indicating the intention of the special district to acquire the land, and shall contain a brief but appropriate identification of the land to be acquired, an indication of the use to which it will be put, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to acquire land, the fiscal court shall review the proposed land acquisition and shall issue its findings of fact in approving, disapproving or modifying such proposed land acquisitions.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the acquisition of land as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval to the proposed acquisition of land, the special district may challenge the decision by bringing suit in the circuit court in which the land is located. The circuit court shall review the material pertinent to the proposed land acquisition and reasons for disapproval of the acquisition and shall render a decision either sustaining or overruling the disapproval. Findings of the fiscal court shall be conclusive as to questions of fact. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any proposal by a taxing special district for the acquisition of land shall be submitted for comment, to the fiscal court, or fiscal courts if it is a taxing special district which lies in more than one (1) county.

(2) The fiscal court receiving proposals for taxing special district land acquisitions shall review such proposals and, within sixty (60) days after receipt thereof, may submit their comments thereon to the governing body of the special district. Upon receipt of the comments of the fiscal court, or sixty (60) days after the transmittal of the proposed land acquisition to the fiscal court, the governing body of the taxing special district may adopt the proposed land acquisitions, with or without modification, as part of the taxing special district program as otherwise authorized by law, or by charter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the construction of capital improvements by a special district other than a taxing special district, the special district shall submit to the fiscal court, or fiscal courts if it is a special district which lies in more than one (1) county, a statement indicating its intention to make the improvements. The statement shall be in the form of a resolution adopted by the board of the special district, indicating the need for the capital improvements, the cost of the capital improvements, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to make capital improvements, the fiscal court shall review the proposed capital improvements and shall issue its findings of fact in approving, disapproving or modifying such proposed capital improvements.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the capital improvements as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval for the proposed capital improvements, the special district may challenge the decision by bringing suit in the circuit court in which the special district is located. The circuit court shall review the material pertinent to the proposed capital improvements and reasons for the disapproval of the proposal and shall render a decision either sustaining or overruling the disapproval. Findings of the fiscal court shall be conclusive as to questions of fact. The circuit court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any proposal by a taxing special district for the construction of capital improvements shall be

submitted for comment, to the fiscal court, or fiscal courts if it is a taxing special district which lies in more than one (1) county.

(2) The fiscal court receiving proposals for taxing special district capital improvements shall review such proposals and, within sixty (60) days after receipt thereof, may submit their comments thereon to the governing body of the taxing special district. Upon receipt of the comments of the fiscal court, or sixty (60) days after the transmittal of the proposed improvement program to the fiscal court, the governing body of the taxing special district may adopt the proposed capital improvements, with or without modification, as part of the taxing special district program as otherwise authorized by law, or by charter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court shall review proposed service charges or user fees set by the board of the special district, where such fees or charges are not under the jurisdiction of the public service commission, as provided by KRS Chapter 278 and shall issue its findings of facts in approving, disapproving, or modifying such charges.

(2) If the fiscal court refuses to give approval to the proposed fees or charges, the special district may challenge the decision by bringing suit in the circuit court in which the district is located. The circuit court shall review the material pertinent to the proposed fees and charges and reasons for disapproval and shall render a decision either sustaining or overruling the disapproval. Findings of the fiscal court shall be conclusive as to questions of fact. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Special districts shall prepare a budget. Such budgets shall be consistent in form and schedule with the annual budget procedures established for county budgets in accordance with KRS Chapter 68.

(2) Special districts shall be audited annually by an impartial certified public accountant or public accountant.

(3) Special districts may contract with other units of government for legal, financial, audit, and administrative services.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Special districts shall submit their annual audits and budgets to the fiscal court of any county in which they may operate, and to the state local finance officer.

(2) Special districts shall publish an annual financial statement in accordance with KRS 424.220.

(3) A fiscal court which provides county funds to a special district, other than the funds provided in Section 9(6), may require that special district submit a quarterly financial report and specify its contents.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within two (2) years of the effective date of this Act, existing special districts shall comply with all provisions of Sections 2 through 19 of this Act except that they shall not be required to submit a petition for formation as required in subsection (1) of Section 4, neither shall they be required to comply with subsections (3) through (9) of Section 4.

(2) Fiscal court approval of the charter and plan of service of an existing special district shall not be required unless the powers as set forth in the proposed charter and plan of service exceed those previously granted by statute or unless the service area of a district is altered.

(3) Any special district which fails to comply with the provisions of subsection (1) of this Section shall be prohibited from conducting business or performing any act which it is authorized to perform by law or by charter until such time as it is in conformity.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days following fiscal court action approving the formation, merger, or alteration of a special district including those districts covered under Section 18 of this Act, the county judge/executive shall file a copy of the charter and plan of service of the special district with the county court clerk of the county in which the special district is located and with the state local finance officer.

(2) Within thirty (30) days following the dissolution of a special district, the county judge/executive shall file notice of the dissolution of the special district with the county clerk of the county in which the special district is located and with the state local finance officer.

SECTION 20. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the incorporation or formation of any non-profit corporation, association or cooperative corporation having as its purpose the furnishing of a public water supply (herein referred to as a "water

association"), a committee of not less than five (5) resident freeholders of the geographical area sought to be served with water facilities by the proposed water association shall formally make application to the Public Service Commission of Kentucky in such manner and following such procedures as the Public Service Commission may by regulation prescribe, seeking from the Commission the authority to proceed to incorporate or otherwise create a water association. The Commission shall thereupon set the application for formal public hearing, and shall give notice to all other water suppliers, whether publicly owned or privately owned, and whether or not regulated by the Commission, rendering services in the general area proposed to be served by said water association, and to any planning and zoning or other regulatory agency or agencies with authority in the general area having concern with the application. The Commission may subpoena and summon for hearing purposes any persons deemed necessary by the Commission in order to enable the Commission to evaluate the application of the proponents of said water association, and reach a decision in the best interests of the general public. Intervention by any interested parties, water suppliers, municipal corporations, and governmental agencies shall be freely permitted at such hearing.

(2) The public hearing shall be conducted by the Commission pursuant to the provisions of KRS 278.020. At the time of the hearing, no employment of counsel or of engineering services shall have been made to be paid from water association funds, or made a charge in futuro against water association funds, if formation of such water association is permitted by the Commission.

(3) Before the Public Service Commission shall approve any application for creation of a water association, the Commission must make a finding and determination of fact that the geographical area sought to be served by such proposed water association cannot be feasibly served by any existing water supplier, whether publicly or privately owned, and whether or not subject to the regulatory jurisdiction of the Commission. If it shall be determined that the geographical area sought to be served by the water association can be served more feasibly by any other water supplier, the Commission shall deny the application and shall hold such further hearings and make such further determinations as may in the circumstances be appropriate in the interests of the public health, safety and general welfare.

(4) Any order entered by the commission in connection with an application for creation of a water district or water association shall be appealable to the Franklin Circuit Court as provided by KRS 278.410.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Pursuant to the provisions of KRS 278.020, the fiscal court shall notify the public service commission of the proposed creation of any water district as provided in Section 4 of this Act and shall furnish the public service commission with copies of the proposed charter of the water district, plan of service, notice of the time and place of any hearings on the proposed district, and any other information the public service commission may request.

SECTION 22. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers and joint operations of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger or joint operation of water districts wherever feasible.

(2) The Public Service Commission of Kentucky is authorized and empowered to initiate, carry out, and complete such investigations, inquiries, and studies as may be reasonably necessary to determine the advisability as to the merger or joint operation of water districts. Prior to ordering a hearing with reference to the merger or joint operation of any water district into one or more additional water districts, the Public Service Commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger or joint operation, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the Commission to formulate a proper decision regarding such merger or joint operation.

(3) Based upon the written report and study required to be made incident to any water district merger or joint operation, the Public Service Commission may propose by order that a merger or joint operation of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged or jointly operated. Said order shall provide for a formal public hearing to be held before the Public Service Commission on the subject of such proposed merger or joint operation. Actual notice of such merger hearing shall also be furnished to the county judges/executive of each county containing a water district proposed to be merged or jointly operated, and each Water Commissioner of a water district proposed to be merged or jointly operated, and notice of such public hearing shall be afforded to the public served by the respective water districts sought to be merged or jointly operated, by newspaper notice in accordance with the provisions of KRS Chapter 424.

(4) A formal hearing before the Public Service Commission shall be held with reference to such merger or joint operation proposal, and, upon such occasion, all water districts which are sought to be merged or jointly operated into a single entity shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired. Such public hearing may be adjourned from time to time by the Public Service Commission, and notice of such adjournments may, but need not, be afforded as with reference to the initial public hearing. At the conclusion of such proceedings, the Public Service Commission shall enter its order, either merging the water districts which are the subject of the merger proceedings into a single water district, or directing their joint operation, or abandoning the proposal.

(5) Outstanding obligations of any water district merged in accordance with the provisions of this section which are secured by the right to levy an assessment as provided by Section 10 of this Act, inclusive, or secured by a pledge of the income and revenues of the systems operated by any such merged water district, shall continue to be retired from such moneys and funds as shall be collected from the users of facilities operated by such merged water districts in the original water district area in accordance with the terms and provisions of the enabling laws and the authorizing resolutions or indentures under which the outstanding obligations were issued, until all such obligations have been retired.

(6) In any order ordering the merger or joint operation of water districts, the Public Service Commission shall make such additional orders as may be required in connection with the schedule of rates, rentals and charges for services rendered to be levied by the water district which remains in existence following such merger or joint operation, having due regard to contractual commitments made and entered into by the constituent water districts in connection with the issuance of obligations by such districts.

(7) Upon the effective date of any merger of water districts, the Water Commissioners of the merged water districts shall continue to serve as Water Commissioners for the remainder of the terms for which they were appointed, and, following the expiration of the terms of such Water Commissioners, appointments shall be made in accordance with the charter of the water district or with Section 9 of this Act.

(8) Any order of merger or joint operation entered by the Public Service Commission in accordance with this section shall be subject to all of the provisions of KRS Chapter 278, with reference to petitions for rehearing, and appeal.

(9) Using the authority of this section the Public Service Commission can also cause mergers or joint operations of water associations into water associations or mergers or joint operations of water associations into water districts.

(10) Nothing contained herein shall be construed to prohibit or limit in any respect the acquisition by water utilities subject to the jurisdiction of the Commission or by municipally owned water utilities of the assets of water districts or water associations or the merger of water districts or water associations and water utilities subject to the jurisdiction of the Commission or municipally owned water utilities.

SECTION 23. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No water district shall be merged, altered, or dissolved as provided in Sections 6 or 8 of this Act without the prior written approval of the public service commission.

(2) Following fiscal court action to merge, alter, or dissolve a water district, the county judge/executive shall notify the public service commission of the merger or dissolution of the water district.

SECTION 24. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Before any water district in a county containing a city of the first class shall undertake the construction of a sanitary sewer system, such district shall first obtain the written approval of whatever agency of the county, if any, by other statute, possesses county-wide authority over sanitary sewer systems.

SECTION 25. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Any fire protection district, any fire prevention district, and any municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, may, through its governing body, make and enter into contracts with any other fire protection district, fire prevention district, municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, either within the same county or within an adjoining county in an area adjacent to the boundary line between the counties, for the furnishing or receiving of fire protection services for all property within the confines of the area included in and covered by the contract or contracts, where such fire protection is not otherwise provided by some division of government or governmental agency. Similar contracts may be made and entered into between any county and an adjoining county, or between any county and any one or more municipalities or districts, departments or units of the character above mentioned, located either within the county or within an adjoining county in an area adjacent to the boundary line between the counties. The personnel and equipment of a contracting party, in going to and returning from a fire, or in answering and responding to a false fire alarm or call, and while endeavoring to extinguish fires within the area covered by the contract, shall be deemed and hereby is declared to be engaged in the exercise of a governmental function.

SECTION 26. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

All municipal firemen, fire protection district firemen, and volunteer fire department firemen, full-paid or volunteer, attending and serving at fires or doing fire prevention work outside the corporate limits of a municipality, fire protection district, or volunteer fire department district as provided in Section 25 of this Act, or area normally served by a volunteer fire department, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of their own municipality, fire protection district, or area normally served by a volunteer fire department, but full-paid firemen shall receive no additional compensation and volunteer firemen shall receive only such compensation as may be provided for by ordinance or resolution in such cases, and all such firemen shall be entitled to all benefits of any pension fund, in the same manner as if the firefighting or fire prevention work had been within the corporate limits of the municipality, or area normally served by a volunteer fire department.

SECTION 27. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) A municipal fire department, fire protection district fire department, and volunteer fire department and the personnel of each, answering any fire alarms, performing fire prevention services, or other duly authorized emergency services inside and outside of the corporate limits of its municipality, fire protection district, or area normally served by a volunteer fire department, shall be considered an agent of the commonwealth of Kentucky, and acting solely and alone in a governmental capacity, and such municipality, fire protection district, or area normally served by a volunteer fire department, shall not be liable in damages for any omission or act of commission or negligence while answering an alarm, performing fire prevention services, or other duly authorized emergency services.

(2) No municipal fire department, fire protection district fire department or volunteer fire department answering any fire alarms, performing fire prevention services or volunteer fire department services inside the corporate limits of the district shall be liable in damages for any omission or act of commission or negligence while answering or returning from any fire or reported fire, or doing or performing any fire prevention work under and by virtue of this chapter and said fire departments shall be considered agents of the commonwealth of Kentucky, and acting solely and alone in a governmental capacity.

SECTION 28. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a flood control district, and of any other activities of a flood control district that the secretary may request.

SECTION 29. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Upon the creation of a library district, the county judge/executive shall notify the department of libraries of the establishment of the library district. The department of libraries shall then recommend to the county judge/executive the names of suitable persons from that county to be appointed to the board. The department of libraries in recommending persons to the county judge/executive for appointment to the board shall recommend twice as many persons as the number of vacancies, and the county judge/executive shall make his selection from those recommended.

SECTION 30. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The board of a library district shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the library district and do all things necessary to provide efficient library service. No library district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the department of libraries. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the department of libraries for this purpose. The library board shall meet annually and at such other times as it deems necessary.

SECTION 31. A NEW SECTION OF KRS CHATPER 65 IS CREATED TO READ AS FOLLOWS:

The board of a library district shall appoint a district librarian and such assistant librarians as it deems necessary. The district librarian shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

SECTION 32. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Within sixty (60) days after the close of each fiscal year the board of a library district shall make a written report to the department of libraries. A copy of this report shall be filed with the county clerk of each county within the library district. The report shall contain:

(1) An itemized statement of the various sums of money received for the district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequest, purchase, gift or otherwise during the fiscal year;

(4) A statement of the character of library service furnished to the district during the fiscal year; and

(5) Any other statistics or information requested by the department of libraries.

SECTION 33. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Public library district librarians shall be required to attend all library workshops sponsored by the department of libraries, the actual and necessary expenses incident thereto being a charge against the district library fund.

SECTION 34. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No public health taxing district shall be dissolved or merged, as provided in Section 7 of this Act, without the written approval of the secretary of the department for human resources.

SECTION 35. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The hospital district board, in cooperation with regional or state comprehensive health planning councils, where established, shall plan for the unmet hospital needs in the hospital district.

SECTION 36. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Within sixty (60) days after the close of each fiscal year the hospital district board shall make a written report to the secretary of the department for human resources. A copy of this report shall be filed with the county court clerk of each county within the hospital district. The report shall contain:

(1) An itemized statement of the various sums of money received for the hospital district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;

(4) A statement of the character of hospital services furnished to the hospital district during the fiscal year; and

(5) Any other statistics or information requested by the department for human resources.

SECTION 37. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for human resources of the creation, merger, alteration of service area, or dissolution of a hospital district, and of any other activities of a hospital district that the secretary may request.

SECTION 38. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a sanitation district, and of any other activities of a sanitation district that the secretary may request.

SECTION 39. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Upon the completion of the plan of service as required in Section 4 of this Act, the petitioners for a sanitation district shall submit it to the department for natural resources and environmental protection for approval. If the department for natural resources and environmental protection refers the plan back for amendment, the petitioners shall prepare and submit an amended plan. If the department for natural resources and environmental protection rejects the plan, the petitioners shall proceed to prepare another plan. If the department for natural resources and environmental protection approves the plan, a copy of the action of the department for natural resources and environmental protection shall be filed with the fiscal court and incorporated into the records of the district.

SECTION 40. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Upon the approval of the plan of service by the department for natural resources and environmental protection and contingent upon the creation and certification of the district by the fiscal court, the board of directors of the sanitation district shall pass a resolution accepting the official plan as final and fixing all financing, taxes and rentals as authorized by Section 10 of this Act necessary for the construction, maintenance, and operation required to place the plan in effect. After final resolutions are passed fixing the rates and rentals, no alterations of the plan shall be made except as provided in this Act and as approved by the department for natural resources and environmental protection.

SECTION 41. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

After the establishment of the sanitation district and the organization of the board of directors, no person or public corporation shall install within the sanitation district any laterals, trunk lines, interceptors for the collection or discharge of sewage or other liquid waste, treatment or disposal works, until the plans therefor have been submitted to and approved by the board of directors of the sanitation district and the department for natural resources and environmental protection. Any installation contrary to the provisions of this section shall constitute a nuisance and shall be abated by injunction upon proper application by anyone aggrieved, including the sanitation district, the commissioner, or the department for natural resources and environmental protection.

SECTION 42. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Where necessary in order to secure the best results from the construction, operation and maintenance of the works and improvements of the sanitation district or construction subdistricts and to prevent their damage from misuse, the board of directors of a sanitation district may make and enforce regulations pertaining to the use by persons and public corporations of the works and improvements of the sanitation district or construction subdistricts. Such regulations may prescribe the design, construction and use of sewers within the sanitation district or construction subdistricts and the manner in which connections to laterals, trunk sewers, intercepting sewers and to other works of the sanitation district or construction subdistricts shall be made, may prevent the unnecessary pollution of any watercourse or supply within the sanitation district or construction subdistricts and may prohibit the discharge into such sewers of any wastes deemed detrimental to the works and improvements of the sanitation district or construction subdistricts. Such regulations shall have no effect until approved by the department for natural resources and environmental protection. The board may recover by civil action from any person or public corporation violating such regulations, a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, together with costs. The directors may enforce by mandamus or otherwise all necessary and authorized regulations made by them, and may remove any improper construction or close any connections made improperly or in violation of the regulations. Any person or public corporation willfully failing to comply with the regulations shall be liable for damages caused by such failure and for the cost of renewing any construction damaged or destroyed.

SECTION 43. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

If the charter of a sanitation district permits, the board of directors, as soon as duly appointed and qualified, may levy one (1), two (2), or three (3) annual taxes, which taxes need not be in successive years, or not more than fifteen cents upon each one hundred dollars ($100) of assessed valuation of property within the sanitation district, to be used for the purpose of paying the expenses of organization, surveys and plans, and for other incidental expenses that may be necessary up to the time money is received from the sale of bonds. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The tax shall be based upon the last preceding assessment for state and county purposes, its collection shall conform to the collection of taxes for counties, and the same provisions concerning the nonpayment of taxes shall apply. The tax shall be added by the county clerk to the next state and county tax bill following the levy of the tax by the board of directors of the sanitation district, and shall be collected concurrently with the state and county taxes. Neither the property valuation administrator nor the county court clerk shall be entitled to any additional compensation for the services rendered in connection with the listing of the property for taxation.

SECTION 44. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The reasonable cost and value of any services rendered to a city, county, school district or other municipal corporation by the sanitation district may be charged to the city, county, school district or other municipal corporation and shall be paid for monthly, as the service accrues, from current funds or the proceeds of taxes. The funds so paid shall be accounted for in the same manner as other revenues of the sanitation district.

SECTION 45. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

There is established a committee on mosquito control consisting of the commissioner of agriculture as ex officio chairman, the commissioner of health, the commissioner of natural resources, the commissioner of fish and wildlife resources, the commissioner of highways and the state entomologist. Any of such members may be represented in meetings of the committee by their deputies or other personnel designated in writing. The members of the committee shall serve without compensation, but may be reimbursed for expenses incurred in the performance of their duties.

SECTION 46. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) The committee is authorized to accept and allocate or expend any grants-in-aid for mosquito control

purposes which may be made available to the state by the federal government.

(2) Upon the approval of the committee, funds received by the department of agriculture for permanent mosquito control purposes may be utilized to aid local governmental units, other than mosquito control districts, undertaking projects having significant mosquito control benefits. In no case shall the grant of such funds exceed five per cent (5%) of the capital costs of such project nor fifty per cent (50%) of the annual operating expenses of such unit.

(3) The department of agriculture shall act as fiscal agent in contracting for receipt and expenditure of all funds made available to the committee and shall provide all administrative services required to carry out the functions of the committee.

(4) In no case shall the monetary value of the aid provided with state funds to mosquito control districts exceed that provided locally for temporary control measures such as larviciding or adulticiding, nor twice the local funds provided for permanent improvements such as draining, filling, diking and impounding.

(5) State aid shall not be given to mosquito control districts until the work or project plans for which the grant is being made are submitted to and approved by the committee or its duly authorized representative, and proof has been received by the department of agriculture that required local funds are available.

SECTION 47. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

The state soil and water conservation commission shall:

(1) Supervise the organization and discontinuance of soil conservation districts.

(2) Supervise the appointment of members of soil conservation district boards of supervisors.

(3) Secure the cooperation and assistance of other agencies of the federal, state and local governments in the development of a complete soil conservation program.

(4) Perform such acts and promulgate such regulations as may be necessary to carry out its functions.

SECTION 48. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

Appropriations out of the state treasury to finance the program of the soil and water conservation commission shall be paid out directly on the orders of the chairman, and shall be used to pay the expenses of the commission.

SECTION 49. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

In its biennial report to the state budget officer the soil and water conservation commission shall, in addition to the requirements of existing law, state:

(1) The number and acreage of soil and water conservation districts in existence or in process of organization;

(2) An estimate of the number and probable acreages of the soil and water conservation districts which may be organized during each of the two (2) ensuing fiscal years;

(3) A statement of the balance of funds, if any, available to the commission and to the soil and water conservation districts; and

(4) The estimates of the soil and water commission as to the sums needed for its administrative and other expenses and for allocation among the several soil and water conservation districts during each of the two (2) ensuing fiscal years.

SECTION 50. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The boards of directors of the respective soil conservation districts shall submit to the soil and water conservation commission such statements, estimates, budgets, and other information at such time and in such manner as the soil and water conservation commission requires.

SECTION 51. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the board of a soil and water conservation district determines that uncontrolled soil erosion on some lands within the soil and water conservation district is causing damage to other lands within the soil and water conservation district, it may propose regulations governing the use of lands within the soil and water conservation district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The board may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist it in this work.

(2) Land-use regulations may include:

(a) Requirements for the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches and other necessary structures;

(b) Requirements for the observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

(c) Specifications of cropping programs and tillage practices to be observed;

(d) Requirements for the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on; and

(e) Provisions for such other measures and programs as may assist conservation of soil resources and prevent or control soil erosion in the district.

SECTION 52. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The board of the soil and water conservation district shall not enact land-use regulations into law until after it has caused due notice to be given of its intention to conduct a referendum submitting such regulations to the owners and occupiers of lands lying within the boundaries of the soil and water conservation district, the referendum has been held, and the board of the soil and water conservation district has considered the result of the referendum. The proposed regulations shall be embodied in a proposed ordinance.

SECTION 53. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Copies of the proposed land-use regulation shall be available for the inspection of all eligible voters during the period between publication of notice and the date of the referendum. The notices of the referendum shall recite the contents of the proposed regulation, or shall state where copies of the proposed regulation may be examined.

(2) The question shall be submitted by ballots, upon which appear the words "For approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance No. ....., prescribing land-use regulations for conservation of soil and prevention of erosion." A square shall be before each proposition. The ballot shall also contain a direction to insert an X mark in the square before one or the other of the propositions, as the voter may favor or oppose approval of the proposed regulation.

SECTION 54. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The board of the soil and water conservation district shall supervise the referendum, prescribe appropriate regulations governing the conduct of the referendum and publish the result of the referendum. Only owners of lands within the soil and water conservation district may vote in the referendum.

(2) No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate the referendum or its result if notice of the referendum shall have been given substantially as provided in Section 53 of this Act and the referendum has been fairly conducted.

SECTION 55. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The board of the soil and water conservation district shall not enact a proposed land-use regulation into law unless at least ninety per cent (90%) of the votes cast in the referendum have been cast for approval of the proposed regulation, and unless landowners voting to enact the proposed regulation own at least eighty per cent (80%) of the land within the soil and water conservation district.

(2) The approval of the regulation by ninety per cent (90%) of the votes cast in the referendum shall not require the district board to enact the proposed regulation into law.

(3) Land-use regulations, proposed after the district board has determined that uncontrolled soil erosion on some lands within the soil and water conservation district is causing damage to other lands within the conservation district, and prescribed in regulations adopted by the district board shall have the force and effect of law in the soil and water conservation district.

(4) Land-use regulations apply to publicly owned lands, and shall be observed by agencies administering such lands.

SECTION 56. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Land-use regulations shall be uniform throughout the soil and water conservation district except that the board may classify the lands within the soil and water conservation district with reference to such factors as soil type, degree of slope, threatened or existing degree of erosion, cropping and tillage practices in use, and other relevant factors. The board may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted shall be printed and made available to all owners and occupiers of lands lying within the soil and water conservation district.

SECTION 57. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any landowner within a soil and water conservation district may at any time file a petition with the board asking that any or all of the land-use regulations prescribed in any ordinance adopted by the board shall be amended, supplemented or repealed. Land-use regulations shall not be amended, supplemented or repealed except in accordance with the procedure prescribed by Sections 51 through 55 of this Act for adoption of land-use regulations. Referendums on adoption, amendment, supplementation or repeal of land-use regulations shall not be held more often than once in six (6) months.

SECTION 58. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The board may provide by ordinance that any landowner or occupier who sustains damages from any violation of land-use regulations by another landowner or occupier may recover damages from the other landowner or occupier for the violation.

(2) The supervisors may go upon lands within the soil and water conservation district to determine whether land-use regulations are being observed.

SECTION 59. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Where a board finds that any of the provisions of land-use regulations are not being observed on particular lands, and that the nonobservance tends to increase erosion on those lands and is interfering with the prevention or control of erosion on other lands within the soil and water conservation district, the board may present to the circuit court of the county in which the lands of the defendant lie a verified petition setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant landowner or occupier to observe the regulations and to perform particular work, operations or avoidances as required by the regulations, and that such nonobservance tends to increase erosion on the lands and is interfering with the prevention or control of erosion on other lands within the soil and water conservation district. In all cases where the person in possession of lands is not the owner, the owner of the lands shall be joined as party defendant. The petition shall pray the court to require the defendant to perform the work, operations or avoidances within a reasonable time and to order that if the defendant fails to perform the board may go on the land, perform the work or other operations, or otherwise bring the condition of the lands into conformity with the regulations, and recover the costs and expenses thereof, with interest, from the defendant.

(2) Upon the presentation of the petition, the court shall cause process to be issued against the defendant and shall hear the case. If it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct, and report the evidence to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.

SECTION 60. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The court may dismiss the petition filed under Section 59 of this Act, or it may require the defendant to perform the work, operations or avoidances, and may provide that upon the failure of the defendant to initiate performance within the time specified in the order of the court and to prosecute the work to completion with reasonable diligence, the board of the soil and water conservation district may enter upon the lands involved and perform the work or operations or otherwise bring the condition of those lands into conformity with the regulations and recover the costs and expenses thereof, with interest at the rate of five per cent (5%) per annum, from the defendant.

SECTION 61. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The court shall retain jurisdiction of the case until after the work required by the court under Section 60 of this Act has been completed. Upon completion of the work pursuant to the order of the court the board may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by the board in the performance of the work and praying judgment for such costs and expenses, with interest. The court shall have jurisdiction to enter judgment for the amount of costs and expenses, with interest at the rate of five per cent (5%) per annum until the costs and expenses are paid, together with the cost of the suit.

SECTION 62. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A board of a soil and water conservation district that has adopted land-use regulations shall provide by ordinance for the establishment of a board of adjustment consisting of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of one (1), two (2) and three (3) years, respectively.

(2) The members of the board of adjustment shall be appointed by the soil and water conservation commission, with the advice and approval of the board of the soil and water conservation district for which the board of adjustment has been established.

(3) Members of the board of adjustment shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason. The hearing shall be conducted jointly by the soil and water conservation commission and the board of the soil and water conservation district.

(4) Vacancies on the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term.

(5) Members of the soil and water conservation commission and the board shall be ineligible to appointment as members of the board of adjustment.

SECTION 63. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The members of the board of adjustment shall receive compensation for their services at the rate of five dollars ($5.00) per day for time spent on the work of the board of adjustment, in addition to expenses necessarily incurred in the discharge of their duties. The soil and water conservation district board shall pay the necessary administrative and other expenses of operation incurred by the board of adjustment upon the certificate of the chairman of the board of adjustment.

SECTION 64. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The board of adjustment shall adopt regulations to govern its procedures. The regulations shall be in accordance with this chapter and with any ordinance adopted pursuant to Section 62 of this Act.

(2) The board of adjustment shall select a chairman from among its members, and may, from time to time, change the selection.

(3) Meetings of the board of adjustment shall be held at the call of the chairman and at such other times as the board of adjustment may determine. Any two (2) members of the board of adjustment shall constitute a quorum. The chairman, or in his absence such other member of the board of adjustment as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board of adjustment shall be open to the public.

(4) The board of adjustment shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board of adjustment and shall be a public record.

SECTION 65. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any landowner or occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations and praying the board of adjustment to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of the petition shall be served by the petitioner upon the chairman of the board of the soil and water conservation district and upon the chairman of the soil and water conservation commission.

SECTION 66. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The board of adjustment shall fix a time for the hearing of the petition and cause due notice of the hearing to be given. The board of the soil and water conservation district and the soil and water conservation commission may appear and be heard at the hearing. Any owner or occupier of lands lying within the district who objects to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board of adjustment may appear in person, by agent or by attorney.

SECTION 67. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

If, upon the facts presented at the hearing, under Section 66 of this Act, the board of adjustment determines that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record that determination and make and record findings of fact as to the specific conditions which establish those great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board of adjustment may authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve the great practical difficulties or unnecessary hardship and will not be contrary to the public interest. The variance shall be such that the spirit of the land-use regulations shall be observed, the public health, safety and welfare secured and substantial justice done.

SECTION 68. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any petitioner who has been aggrieved by an order of the board of adjustment granting or denying, in whole or in part, the relief sought, or the board of the district or any intervening party may obtain a review of the order of the board of adjustment in the circuit court for the county within which the lands of the petitioner lie, by filing in that court a petition with a copy of the order complained of praying that the order of the board of adjustment be modified or set aside. When such a petition is filed with the clerk of the circuit court, he shall issue summons on that petition, directed to be served on the chairman of the board of the soil and water conservation district. The practice and proceedings on any and all such petitions shall then be the same as that provided in the Kentucky Rules of Civil Procedure with the right of the parties to appeal to the court of appeals.

SECTION 69. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The soil and water conservation commission as referred to in KRS chapter 146, subject to the supervision of the commissioner of natural resources, to the restrictions provided in Sections 69 through 74 of this Act, and to the requirements of KRS chapters 42 and 45, is hereby authorized to acquire and to make available, or to assist in acquiring or making available to soil and water conservation districts, heavy or specialized machinery or equipment which an individual district cannot itself economically obtain.

(2) When the soil and water conservation commission acquires or makes available to any district the machinery or equipment above referred to, it shall require said district to fully amortize, in the form of rentals, to the division of soil and water conservation, as referred to in KRS chapter 146, any amount so expended by the commission for such assistance. The amount and method of amortization for each piece of heavy or specialized machinery or equipment shall be determined by the commission, subject to approval of the commissioner of natural resources, on the basis of a rental to be charged by the district to the user of such machinery or equipment sufficient (a) to fully amortize to the division the capital outlay for the machinery itself over the period of its reasonably anticipated full usefulness; (b) to cover the cost of operation, maintenance and repairs; (c) to pay the usual cost of providing an operator; (d) to compensate the district for the usual costs of transportation from one job to another.

(3) In giving effect to all of the foregoing, the commission shall estimate the amount of time such equipment would ordinarily be idle.

SECTION 70. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The division of soil and water conservation shall retain title to each piece of heavy or specialized machinery or equipment so purchased and made available to any soil and water conservation district until such time as the soil and water conservation districts fully amortize the commission's investment in such machinery or equipment. After the commission's investment in such machinery or equipment has been fully amortized, it is authorized and empowered to transfer the title thereto to the district.

SECTION 71. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Each soil and water conservation district which receives or uses the machinery or equipment referred to in Section 69 of this Act shall maintain its public records to show for each piece of machinery or equipment: (1) the hours same has worked on each job in each district; (2) the amounts collected from each job in each district; (3) the expense of repairing, moving, manning and other usual cost of operation, and (4) the amount paid by each district for the purpose of amortizing the commission's investment in such machinery or equipment. Each of such soil and water conservation districts shall send a duplicate copy of such records to the commission, who shall retain same in its files for public inspection. In addition thereto, the commission shall at all times maintain an account showing each piece of machinery or equipment, the title to which is vested in it, the amount paid thereon by any soil and water conservation district, and the amount remaining to be amortized.

SECTION 72. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The amount paid by any such district to the division for amortization purposes shall be made monthly when the machinery is in use. This amount shall be credited to a revolving fund and the costs of any new machinery or equipment shall be charged to the same account. Neither the appropriation herein made nor the revolving fund shall be used for any purpose other than to make available to soil and water conservation districts the machinery and equipment of the type referred to in Section 69 of this Act.

SECTION 73. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any two (2) or more soil and water conservation districts may combine with each other for the purpose of obtaining and using the specialized machinery or equipment referred to in Section 69 of this Act, upon the terms and conditions set forth in Sections 69 through 74 of this Act.

SECTION 74. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The soil and water conservation commission, with the approval of the commissioner of natural resources, is hereby authorized to promulgate such other rules and regulations or methods of accounting as may be necessary or expedient to give effect to the purposes expressed in Sections 69 through 73 of this Act.

SECTION 75. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a watershed conservancy district, and of any other activities of a watershed conservancy district that the secretary may request.

SECTION 76. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall be fined as provided in KRS 68.990(5) for violations of the provisions of Sections 16, 17, and 19 of this Act.

Section 77. The following KRS sections are repealed:

KRS 65.005, 74.010, 74.012, 74.110, 74.115, 74.361, 74.363, 74.367, 74.416, 75.010, 75.020, 75.025, 75.050, 75.060, 75.070, 104.460, 104.480, 104.490, 104.500, 104.510, 104.520, 104.530, 104.540, 104.550, 104.560, 107.320, 108.050, 108.070, 108.100, 173.460, 173.470, 173.480, 173.520, 173.530, 173.570, 173.590, 173.620, 173.640, 173.650, 173.715, 173.720, 173.725, 173.745, 173.750, 173.770, 173.780, 173.790, 173.795, 184.010, 184.020, 184.030, 184.040, 184.050, 184.060, 212.720, 212.725, 212.740, 212.750, 212.755, 212.760, 215.080, 215.090, 215.100, 215.110, 215.120, 215.130, 215.140, 215.150, 215.160, 215.340, 215.345, 215.350, 215.355, 216.310, 216.315, 216.317, 216.318, 216.319, 216.320, 216.337, 216.347, 220.020, 220.030, 220.040, 220.050, 220.060, 220.070, 220.080, 220.090, 220.100, 220.110, 220.120, 220.220, 220.240, 220.250, 220.260, 220.320, 220.360, 220.510, 220.520, 220.535, 220.536, 220.537, 220.540, 249.510, 249.520, 249.530, 249.540, 249.551, 249.560, 249.570, 249.580, 249.590, 249.600, 249.610, 249.620, 249.631, 262.025, 262.090, 262.095, 262.096, 262.097, 262.100, 262.110, 262.120, 262.130, 262.140, 262.150, 262.160, 262.170, 262.180, 262.190, 262.230, 262.350, 262.360, 262.370, 262.380, 262.390, 262.400, 262.410, 262.420, 262.430, 262.440, 262.450, 262.460, 262.470, 262.480, 262.490, 262.500, 262.510, 262.520, 262.580, 262.610, 262.620, 262.630, 262.640, 262.650, 262.660, 262.700, 262.707, 262.710, 262.715, 262.720, 262.725, 262.730, 262.735, 262.780, 262.785, 266.020, 266.025, 266.030, 266.040, 266.050, 266.060, 266.070, 266.080, 266.090, 267.020, 267.030, 267.040, 267.050, 267.060, 267.070, 267.080, 267.550, 267.560, 268.020, 268.030, 268.040, 268.060, 268.070, 268.080, 268.090, 268.130, 268.140, 268.150, 268.630, 269.070, 269.270.

Section 78. The following KRS sections are repealed two years following the effective date of this Act:

KRS 74.020, 74.030, 74.040, 74.050, 74.070, 74.075, 74.076, 74.077, 74.080, 74.090, 74.100, 74.120, 74.130, 74.140, 74.150, 74.160, 74.170, 74.180, 74.190, 74.200, 74.210, 74.220, 74.230, 74.240, 74.250, 74.260, 74.270, 74.280, 74.290, 74.300, 74.310, 74.320, 74.330, 74.340, 74.350, 74.360, 74.370, 74.380, 74.390, 74.400, 74.401, 74.405, 74.407, 74.408, 74.410, 74.412, 74.414, 74.415, 74.990, 75.031, 75.040, 75.080, 75.100, 75.110, 75.120, 75.130, 75.140, 75.150, 75.160, 75.170, 75.180, 75.240, 75.250, 75.255, 75.260, 104.450, 104.470, 104.570, 104.580, 104.590, 104.600, 104.610, 104.620, 104.630, 104.640, 104.650, 104.660, 104.670, 104.680, 107.310, 107.330, 107.340, 107.350, 107.360, 107.370, 107.380, 107.390, 107.400, 107.410, 107.420, 107.430, 107.440, 107.450, 107.460, 107.470, 107.480, 107.490, 107.500, 108.010, 108.020, 108.030, 108.040, 108.060, 108.080, 108.090, 108.110, 108.120, 108.130, 108.140, 108.150, 108.160, 108.170, 108.180, 173.450, 173.490, 173.500, 173.510, 173.540, 173.550, 173.560, 173.580, 173.600, 173.610, 173.630, 173.710, 173.730, 173.735, 173.740, 173.755, 173.760, 173.765, 173.775, 173.785, 173.800, 184.070, 184.080, 184.090, 184.100, 184.110, 184.120, 184.130, 184.140, 184.150, 184.160, 184.170, 184.180, 184.190, 184.200, 184.210, 184.220, 184.230, 184.240, 184.250, 184.260, 184.270, 184.280, 184.290, 184.300, 215.170, 215.180, 215.190, 215.200, 215.210, 215.220, 215.230, 215.240, 215.250, 215.260, 215.270, 215.280, 215.290, 215.300, 215.310, 215.320, 215.330, 215.360, 215.370, 215.380, 215.390, 216.313, 216.323, 216.325, 216.327, 216.330, 216.333, 216.335, 216.340, 216.343, 216.345, 216.350, 216.353, 216.355, 216.357, 216.360, 220.010, 220.130, 220.140, 220.150, 220.160, 220.170, 220.180, 220.190, 220.200, 220.205, 220.210, 220.230, 220.270, 220.280, 220.285, 220.290, 220.300, 220.310, 220.330, 220.340, 220.350, 220.370, 220.380, 220.390, 220.400, 220.410, 220.420, 220.430, 220.440, 220.450, 220.460, 220.470, 220.480, 220.490, 220.500, 220.510, 220.530, 220.553, 220.554, 220.555, 220.557, 220.561, 220.563, 220.565, 220.567, 220.571, 220.573, 220,575, 220.577, 220.581, 220.583, 220.585, 220.587, 220.591, 220.593, 220.595, 220.597, 220.601, 220.603, 220.605, 220.607, 220.611, 220.613, 262.010, 262.020, 262.200, 262.210, 262.220, 262.240, 262.250, 262.260, 262.270, 262.280, 262.290, 262.300, 262.310, 262.320, 262.330, 262.340, 262.530, 262.540, 262.550, 262.560, 262.570, 262.590, 262.600, 262.705, 262.740, 262.742, 262.745, 262.750, 262.755, 262.760, 262.763, 262.765, 262.770, 262.775, 262.776, 262.777, 262.778, 262.779, 262.785, 262.791, 262.793, 262.795, 262.990, 266.010, 266.100, 266.110, 266.120, 266.130, 266.140, 266.150, 266.160, 266.170, 266.180, 266.190, 266.200, 266.210, 266.990, 267.010, 267.090, 267.100, 267.110, 267.120, 267.130, 267.140, 267.150, 267.160, 267.170, 267.180, 267.190, 267.200, 267.210, 267.220, 267.230, 267.240, 267.250, 267.260, 267.270, 267.280, 267.290, 267.300, 267.310, 267.320, 267.330, 267.340, 267.350, 267.360, 267.370, 267.380, 267.390, 267.400, 267.410, 267.420, 267.430, 267.440, 267.450, 267.460, 267.470, 267.480, 267.490, 267.495, 267.500, 267.510, 267.520, 267.530, 267.540, 267.570, 267.990, 268.010, 268.160, 268.170, 268.180, 268.190, 268.200, 268.210, 268.220, 268.230, 268.240, 268.250, 268.260, 268.270, 268.280, 268.290, 268.320, 268.330, 268.340, 268.350, 268.360, 268.370, 268.380, 268.390, 268.400, 268.410, 268.420, 268.430, 268.440, 268.450, 268.460, 268.470, 268.480, 268.490, 268.500, 268.510, 268.515, 268.520, 268.530, 268.540, 268.550, 268.560, 268.570, 268.580, 268.590, 268.600, 268.610, 268.620, 268.640, 268.650, 268.990, 269.010, 269.020, 269.030, 269.040, 269.050, 269.060, 269.080, 269.090, 269.100, 269.110, 269.120, 269.130, 269.140, 269.150, 269.160, 269.170, 269.180, 269.190, 269.200, 269.210, 269.220, 269.230, 269.240, 269.250, 269.260.

The Committee Substitute to **HB 51** is as follows:

HB 51, AN ACT relating to special districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the oversight of special districts by the counties in which such districts operate will be in the public interest, in that such oversight will tend to eliminate wasteful duplications, result in coordination between various units of local government, guarantee the accountability of special districts, and ultimately result in a higher degree of service to the general public.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) The words "district" or "special district" mean a quasi municipal corporation or political subdivision created to perform a limited number of public functions within a limited and prescribed area of jurisdiction. It includes all such entities within the state except a city, a county, any entity whose governing body is, by statute, required to be elected at regular elections, any entity whose jurisdiction comprises the entire area of two (2) or more counties, or any agency, authority, or board created or established on the initiative of the legislative body of a city and/or county or the legislative bodies of cities and/or counties.

(2) The words "taxing special district" mean a special district as herein defined which falls within the meaning of Section 157 of the Constitution.

(3) The word "charter" means a document which enumerates the powers and responsibilities of the special district; describes the service area; provides for the composition of the board of directors; describes the officers, including their number, function, and required bond; and provides for the administration of the affairs of the special district.

(4) The words "fiscal court" shall include the legislative body of the urban county government in counties having an urban county form of government.

(5) The words "county judge/executive" shall include the chief executive of the urban county government in counties having an urban county form of government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A special district, upon certification of its charter by the fiscal court of the county in which it may be located in whole or in part, may perform any governmental function approved by charter which is not prohibited by statute or the Constitution. These governmental functions include: protection of public health and safety; development of economic and industrial resources; provision of water, libraries and other educational services; protection and enhancement of land, water, air and wild life resources; and, collection and disposal of liquid and solid wastes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be approved by the fiscal court of the county in which it may be located only upon satisfaction of the following conditions:

(1) Persons desiring to form a special district shall present to the fiscal court a formation petition meeting the criteria of Section 5 of this Act and signed by twenty-five (25) per cent of the registered voters living in the area to be served as of the last general election. Each formation petition shall be accompanied by:

(a) A charter for the special district;

(b) A plan of service, which may be prepared by an area development district or other qualified public or private agency, showing such of the following as may be germane to the purposes for which the district is being formed:

1. Demographic characteristics of the area including but not limited to population, density, projected growth, and assessed valuation;

2. A description of the service area including but not limited to the population to be served, the date of initial service, the nature and extent of the proposed service, the projected effect of providing service on the social and economic growth of the area, and projected growth in service demand or need;

3. A three (3) to five (5) year projection of cost versus revenue;

4. Justification for formation of the special district including but not limited to the location of nearby governmental and nongovernmental providers of like services and documentation by nearby governmental units stating why they cannot or will not provide the proposed service at least as efficiently as the proposed special district;

5. Any additional information such as land use plans, existing land uses, drainage patterns, health problems, and other analyses which, in the judgment of the fiscal court, bear on the necessity and means of providing the proposed service.

(2) The fiscal court shall send the proposed plan of service to all planning commissions, cities, area development districts, within whose jurisdiction the proposed service area is located and to any state agencies required by law to be notified.

(3) The fiscal court shall schedule a hearing on the proposal for no earlier than thirty (30) nor later than ninety (90) days following receipt of the petition, charter, and plan of service, and shall publish notice according to the provisions of KRS Chapter 424.

(4) At the public hearing, the fiscal court shall take testimony of interested parties and solicit the recommendations of any planning commission, city, area development district, or state agency meeting the criteria of subsection 2 of this section.

(5) The fiscal court may extend the hearing, from time-to-time, for ninety (90) days from the initial date of hearing but must render a decision within thirty (30) days of the final adjournment of the hearing.

(6) Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve, disapprove, or approve with modification, the formation of the special district to provide service as described in the charter and plan of service, and to exercise the powers so described in the charter or plan of service provided for in this Act, or granted by specific statute which may apply to the special district being formed.

(7) If the fiscal court approves the formation of a special district other than a taxing special district, the fiscal court shall certify the charter.

(8) If the fiscal court approves the formation of a taxing special district, the question of the formation of the district shall be submitted to the voters, as set forth in the formation petition, through one of the two following methods:

(a) A certification petition signed by a majority of the registered voters living in the area of the proposed district as of the last general election. The certification petition must be submitted to the fiscal court within one hundred eighty (180) days of the fiscal court's approval of the district; or

(b) A referendum among the registered voters living in the area of the proposed district.

1. If the formation petition for a taxing special district states that voter approval is to be sought through a referendum, the fiscal court, upon approving the district, shall adopt a resolution directing the county clerk to cause the question to be placed on the ballot at the next regular election which is more than sixty (60) days from the fiscal court's approval of the district. The county clerk shall give notice of the referendum pursuant to KRS Chapter 424.

2. The question shall be in substantially the following form: "Are you in favor of establishing a (insert type of district) which shall have the authority to impose a maximum ad valorem tax of (insert maximum tax rate) on each one hundred dollars ($100) worth of property assessed for local taxation in the district for the maintenance and operation of the (insert the name of the district)?"

(9) If a valid certification petition is submitted to the fiscal court or if a majority of the votes cast at a referendum held pursuant to subsection (8) of this section favor the creation of a taxing special district, the fiscal court shall certify the charter of the taxing special district.

(10) For taxing purposes the effective date of the tax levy shall be January 1 of the year following the certification of the charter of the taxing special district.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A valid petition for the creation of a special district shall be in substantially the following form:

"The following registered voters of (insert name of county) hereby petition the fiscal court of each county concerned to form a (insert type of special district) for the following reasons: (A valid petition shall contain a brief list in layman's terms of the reasons for the creation of the district.)"

(2) Each petition shall contain the name and address of each petitioner.

(3) The formation petition for a taxing special district shall specify the method, as described in Section 4(8) of this Act, for submitting the question of the creation of the district to the voters.

(4) The certification petition for a taxing special district shall contain a clear statement of the maximum amount of tax to be levied for support of the district.

(5) The statements required by subsections (1) and (4) of this section shall appear at the top of each page of the petition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The charter of a special district may be amended, two or more special districts may be merged or the area or functions of a special district may be expanded or contracted by a vote of the fiscal court after public notice in accordance with KRS Chapter 424 and a public hearing. Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the merger or alteration of a district.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or state agency meeting the criteria of Section 4(2) of this Act, or any citizen living in the proposed area of the special district may appeal the decision of the fiscal court on the formation of a special district or the modification of its charter to the circuit court. The circuit court may affirm the action of the fiscal court, or may deny all or part of the action of the fiscal court and order approval or disapproval of the special district, but may deny the action of the fiscal court only if such decision is found to be arbitrary or capricious. The circuit court may not insert provisions in a charter which were not considered in the original plan of service or in the plan of service as modified during the fiscal court hearing.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) By resolution, the fiscal court may dissolve, after notice in accordance with KRS Chapter 424 and a public hearing, a district it or the circuit court has approved if:

(a) The special district has not provided service as described and within the time specified in the charter and plan of service and cannot justify such deficiency at the hearing; or

(b) The fiscal court desires to provide the service, or desires a city meeting the criteria of Section 4(2) of this Act to provide the service, the city agrees to provide such service, and it would be to the benefit of the users of such services to have the fiscal court or the city provide such services; or

(c) Twenty-five (25) per cent of the registered voters of the special district as of the last general election or twenty-five (25) percent of the users if the district is financed by user fees in the county sign a petition for the dissolution of the special district. The fiscal court shall consider the need for the dissolution and may adopt a resolution ordering the dissolution of the district. The petition for dissolution of the district shall meet the following criteria:

1. It shall be in substantially the following form: "The following registered voters in (insert the name of the county) favor dissolving the (insert the name of the district) for the following reasons: (A sufficient petition shall include a brief list in layman's terms of the reasons for the dissolution of the district.)"

2. It shall contain the name and address of each petitioner and shall be presented to the fiscal court within ninety (90) days after having been signed by the first petitioner.

(2) Following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of a special district.

(3)(a) If, at the time the fiscal court resolves to dissolve a special district, the special district has contractual obligations which cannot be satisfied through the liquidation of the special district's assets or if the fiscal court is unwilling to assume the contractual obligations of the special district, the resolution for dissolution shall have no legal effect until such contractual obligations are satisfied. The board shall continue to operate to satisfy its contractual obligations but shall not incur additional contractual obligations without fiscal court approval. Upon the satisfaction of all contractual obligations the special district shall be legally dissolved. All assets of the special district shall become the property of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of property owners of the special district.

(b) If, at the time the fiscal court resolves to dissolve a special district, the contractual obligations of the special district can be satisfied through the liquidation of the assets of the special district or if the fiscal court is willing to assume the contractual obligations of the special district, the special district shall be legally dissolved upon resolution of the fiscal court. All assets and liabilities of the special district shall become the assets and liabilities of the county and, if the district is a taxing special district, the county clerk shall remove the tax levy from the tax bills of the property owners of the district.

(4) The special district, a city, or a state agency meeting the criteria of Section 4(2) of this Act, or a citizen residing in the district may appeal the action of the fiscal court under subsection (1) of this section, to the circuit court. The circuit court shall review de novo the decision of the fiscal court and may reverse the action of the fiscal court only if such action of the fiscal court under the criteria of subsection (1) of this section is deemed to have been arbitrary or capricious.

(5) Any special district, whether created prior to or after the effective day of this Act, which for the immediately prior five (5) consecutive years fails to provide the service for which it was created, shall be legally dissolved by the fiscal court unless the fiscal court takes affirmative action to continue its existence. The district shall no longer have the authority to provide such service, or to prevent other parties from providing that service or other services which affect that service. The special district shall be dissolved as provided in subsection (3) of this section.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any special district may by charter provide for the election or appointment of its board of directors. In the absence of such provisions, the board of directors of the special district shall be appointed or removed by the county judge/executive in accordance with KRS 67.710 except as otherwise provided by statute. The

board of directors of any special district which lies in more than one (1) county shall be appointed by the respective county judges/executive in proportion to the population in each county residing in the special district to the total population of the special district.

(2) In no instance shall an elected city, county, or state official other than the county judge/executive serve as a member of the board of the special district.

(3) The terms of the board of directors of the special district shall be staggered so that in no year will the total membership change.

(4) The compensation, if any, of the board of directors of the special district except the county judge/executive shall be specified in the charter. The county judge/executive shall receive no salary or per diem.

(5) Notwithstanding the provisions of KRS 61.080, the county judge/executive or one of his designees shall serve as an ex-officio member of the board of directors of all special districts in his county. In the case of special districts which lie in more than one (1) county, the respective county judges/executive or their designees shall alternate as an ex-officio member on a yearly basis.

(6) At the first meeting, the members of the board of directors shall elect from among their number such officers as are specified in the charter of the special district and provide for their responsibilities and terms of office.

(7) Special districts shall pay any bond on officers, except that prior to the receipt of income by a special district, the county may pay the bond subject to reimbursement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The powers of a special district shall be enumerated in its charter and may include but shall not be limited to the following. The power to:

(1) Sue and be sued;

(2) Own and sell or convey property;

(3) Exercise the power of eminent domain in accordance with the eminent domain act of Kentucky, if such power is granted by charter. Special districts which are not taxing special districts, shall exercise such power through the fiscal court;

(4) Issue bonds in accordance with the provisions of KRS Chapter 58 if such power is granted by charter or statute. All bond issues shall be reported to the state local finance officer in accordance with KRS 66.045;

(5) Make assessments in accordance with the provisions of KRS Chapter 107 if such power is granted by charter or statute;

(6) Set service charges or user fees as provided by charter or statute in accordance with Section 15 of this Act;

(7) Apply for and accept grants or aid from the state or federal government or any agency thereof to carry out the purpose of the special district. In any case where county matching funds are required, the approval of the fiscal court shall be obtained prior to application for such grants;

(8) Tax to the extent of its taxing powers as granted by charter or statute. Taxes shall be collected by the sheriff in the same manner as county and state taxes are collected, and the sheriff shall receive two (2) per cent of the amount collected as compensation for such service.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to acquisition of title to any land by a special district, other than a taxing special district, authorized by its charter to acquire land, the special district shall submit to the fiscal court, or fiscal courts, if it is a special district which lies in more than one (1) county a statement indicating its intention to acquire the land. The statement shall be in the form of a resolution adopted by the governing body of the district, indicating the intention of the special district to acquire the land, and shall contain a brief but appropriate identification of the land to be acquired, an indication of the use to which it will be put, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to acquire land, the fiscal court shall review the proposed land acquisition and shall issue its findings of fact in approving, disapproving or modifying such proposed land acquisitions.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the acquisition of land as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval to the proposed acquisition of land, the special district may challenge the decision by bringing suit in the circuit court in which the land is located. The circuit court shall review the material pertinent to the proposed land acquisition and reasons for disapproval of the acquisition and shall render a decision either sustaining or overruling the disapproval. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the construction of capital improvements by a special district other than a taxing special district, the special district shall submit to the fiscal court, or fiscal courts if it is a special district which lies in more than one (1) county, a statement indicating its intention to make the improvements. The statement shall be in the form of a resolution adopted by the board of the special district, indicating the need for the capital improvements, the cost of the capital improvements, and other information the special district deems appropriate.

(2) Within thirty (30) days after receipt of the statement of intention to make capital improvements, the fiscal court shall review the proposed capital improvements and shall issue its findings of fact in approving, disapproving or modifying such proposed capital improvements.

(3) Upon receiving approvals required pursuant to this section, a special district may proceed with the capital improvements as otherwise authorized by law, or by charter.

(4) If the fiscal court refuses to give approval for the proposed capital improvements, the special district may challenge the decision by bringing suit in the circuit court in which the special district is located. The circuit court shall review the material pertinent to the proposed capital improvements and reasons for the disapproval of the proposal and shall render a decision either sustaining or overruling the disapproval. The circuit court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court shall review proposed service charges or user fees set by the board of the special district, where such fees or charges are not under the jurisdiction of the public service commission, as provided by KRS Chapter 278 and shall issue its findings of fact in approving, disapproving, or modifying such charges.

(2) If the fiscal court refuses to give approval to the proposed fees or charges, the special district may challenge the decision by bringing suit in the circuit court in which the district is located. The circuit court shall review the material pertinent to the proposed fees and charges and reasons for disapproval and shall render a decision either sustaining or overruling the disapproval. Findings of the fiscal court shall be conclusive as to questions of fact. The court may reverse a denial where it finds that the denial was arbitrary or capricious.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each special district shall prepare a budget. Such budgets shall be consistent in form and schedule with the annual budget procedures established for county budgets in accordance with KRS Chapter 68.

(2) Each special district shall be audited annually by an impartial certified public accountant or public accountant.

(3) Special districts may contract with other units of government for legal, financial, audit, and administrative services.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Each special district shall submit its annual audit and budget to the fiscal court of any county in which it may operate, to the state local finance officer, and to other agencies as required by law.

(2) Each special district shall publish an annual financial statement in accordance with KRS 424.220.

(3) A fiscal court which provides county funds to a special district, other than the funds provided in Section 9(6), may require the special district to submit a quarterly financial report and specify its contents.

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within two (2) years of the effective date of this Act, existing special districts shall submit a charter and plan of service to the fiscal court and shall comply with all provisions of Sections 2 through 17 of this Act except that they shall not be required to submit a petition for formation as required in subsection (1) of Section 4; neither shall they be required to comply with subsections (3) through (10) of Section 4.

(2) Fiscal court approval of the charter and plan of service of an existing special district shall be automatically granted except that no existing special district shall exceed the powers, as enumerated in Section 10 of this Act, that it has previously been granted by statute without approval of the fiscal court; neither shall an existing special district alter its boundaries or functions without the approval of the fiscal court.

(3) Any special district which fails to comply with the provisions of subsection (1) of this Section shall be prohibited from conducting business or performing any act which it is authorized to perform by law or by charter until such time as it is in compliance.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days following fiscal court action approving the formation, merger, or alteration of

a special district including those districts covered under Section 16 of this Act, the county judge/executive shall file a copy of the charter and plan of service of the special district with the county clerk of the county in which the special district is located and with the state local finance officer.

(2) Within thirty (30) days following the dissolution of a special district, the county judge/executive shall file notice of the dissolution of the special district with the county clerk of the county in which the special district is located and with the state local finance officer.

Section 18. KRS 74.012 is amended to read as follows and reenacted as a new section of KRS Chapter 278:

(1) Prior [to the establishment of any water district as provided by KRS 74.010, and prior] to the incorporation or formation of any non-profit corporation, association or cooperative corporation having as its purpose the furnishing of a public water supply (herein referred to as a "water association"), a committee of not less than five (5) resident freeholders of the geographical area sought to be served with water facilities by the proposed [district or the proposed] water association shall formally make application to the Public Service Commission of Kentucky in such manner and following such procedures as the Public Service Commission may by regulation prescribe, seeking from the Commission the authority to [petition the appropriate county court for establishment of a water district, or] proceed to incorporate or otherwise create a water association. The Commission shall thereupon set the application for formal public hearing, and shall give notice to all other water suppliers, whether publicly owned or privately owned, and whether or not regulated by the Commission, rendering services in the general area proposed to be served by said [water district or] water association, and to any planning and zoning or other regulatory agency or agencies with authority in the general area having concern with the application. The Commission may subpoena and summon for hearing purposes any persons deemed necessary by the Commission in order to enable the Commission to evaluate the application of the proponents of said proposed [water district or] water association, and reach a decision in the best interests of the general public. Intervention by any interested parties, water suppliers, municipal corporations, and governmental agencies shall be freely permitted at such hearing.

(2) The public hearing shall be conducted by the Commission pursuant to the provisions of KRS 278.020. At the time of the hearing, no employment of counsel or of engineering services shall have been made to be paid from [water district funds,] water association funds, or made a charge in futuro against [water district or] water association funds, if formation of such [water district or] water association is permitted by the Commission.

(3) Before the Public Service Commission shall approve any application for creation of a [water district or] water association, the Commission must make a finding and determination of fact that the geographical area sought to be served by such proposed [water district or] water association cannot be feasibly served by any existing water supplier, whether publicly or privately owned, and whether or not subject to the regulatory jurisdiction of the Commission. If it shall be determined that the geographical area sought to be served by the proposed [water district or] water association can be served more feasibly by any other water supplier, the Commission shall deny the application and shall hold such further hearings and make such further determinations as may in the circumstances be appropriate in the interests of the public health, safety and general welfare.

(4) Any order entered by the Commission in connection with an application for creation of a water district or water association shall be appealable to the Franklin Circuit Court as provided by KRS 278.410.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Pursuant to the provisions of KRS 278.020, the fiscal court shall notify the public service commission of the proposed creation of any water district as provided in Section 4 of this Act and shall furnish the public service commission with copies of the proposed charter of the water district, plan of service, notice of the time and place of any hearings on the proposed district, and any other information the public service commission may request.

Section 20. KRS 74.361 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

(1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that reduction of the number of operating water districts in the Commonwealth will be in the public interest, in that mergers *and joint operations* of such districts will tend to eliminate wasteful duplication of costs and efforts, result in a sounder and more businesslike degree of management, and ultimately result in greater economies, less cost, and a higher degree of service to the general public; and that the public policy favors the merger *or joint operation* of water districts wherever feasible.

(2) The Public Service Commission of Kentucky is authorized and empowered to initiate, carry out, and complete such investigations, inquiries, and studies as may be reasonably necessary to determine the

advisability as to the merger *or joint operation* of water districts. Prior to ordering a hearing with reference to the merger *or joint operation* of any water district into one or more additional water districts, the public service commission shall cause to be prepared in writing a feasibility report and study regarding the proposed merger *or joint operation*, containing such studies, investigations, facts, historical data, and projections as in the circumstances may be required in order to enable the Commission to formulate a proper decision regarding such merger *or joint operation.*

(3) Based upon the written report and study required to be made incident to any water district merger *or joint operation*, the public service commission may propose by order that a merger *or joint operation* of water districts be accomplished, and, upon the issuance of such order, shall give actual notice to all water districts proposed to be merged *or jointly operated.* Said order shall provide for a formal public hearing to be held before the public service commission on the subject of such proposed merger *or joint operation.* Actual notice of such merger hearing shall also be furnished to the county judges of each county containing a water district proposed to be merged *or jointly operated*, and each water commissioner of a water district proposed to be merged *or jointly operated*, and notice of such public hearing shall be afforded to the public served by the respective water districts sought to be merged *or jointedly operated*, by newspaper notice in accordance with the provisions of KRS Chapter 424.

(4) A formal hearing before the public service commission shall be held with reference to such merger *or joint operation* proposal, and, upon such occasion, all water districts which are sought to be merged into a single entity *or jointly operated* shall be afforded the right to appear, to present evidence, to examine all exhibits and testimony, to cross-examine all witnesses, and to submit such memoranda, written evidence, and briefs as may be desired. Such public hearing may be adjourned from time to time by the public service commission, and notice of such adjournments may, but need not, be afforded as with reference to the initial public hearing. At the conclusion of such proceedings, the public service commission shall enter its order, either merging the water districts which are the subject of the merger proceedings into a single water district, *or directing their joint operation*, or abandoning the [merger] proposal.

(5) Outstanding obligations of any water district merged in accordance with the provisions of this section which are secured by the right to levy an assessment as provided by *Section 10 of this Act* [KRS 74.130 to 74.230], inclusive, or secured by a pledge of the income and revenues of the systems operated by any such merged water district, shall continue to be retired from such moneys and funds as shall be collected from the users of facilities operated by such merged water districts in the original water district area in accordance with the terms and provisions of the enabling laws and the authorizing resolutions or indentures under which the outstanding obligations were issued, until all such obligations have been retired.

(6) In any order ordering the merger *or joint operation* of water districts, the public service commission shall make such additional orders as may be required in connection with the schedule of rates, rentals and charges for services rendered to be levied by the water district which remains in existence following such merger *or joint operation*, having due regard to contractual commitments made and entered into by the constituent [merged] water districts in connection with the issuance of obligations by such districts.

(7) Upon the effective date of any merger of water districts, the Water Commissioners of the merged water districts shall continue to serve as Water Commissioners for the remainder of the terms for which they were appointed, and, following the expiration of the terms of such water commissioners, *appointments shall be made in accordance with the charter of the water district or Section 9 of this Act* [the appropriate county court or county courts shall appoint and reappoint Water Commissioners to manage the business and affairs of the resultant water district, in the manner provided by KRS 74.020].

(8) Any order of merger *or joint operation* entered by the public service commission in accordance with this section shall be subject to all of the provisions of KRS Chapter 278, with reference to petitions for rehearing, and appeal.

(9) Using the authority of this section the public service commission can also cause mergers *or joint operations* of water associations into water associations or mergers *or joint operations* of water associations into water districts.

(10) Nothing contained herein shall be construed to prohibit or limit in any respect the acquisition by water utilities subject to the jurisdiction of the commission or by municipally owned water utilities of the assets of water districts or water associations or the merger of water districts or water associations and water utilities subject to the jurisdiction of the commission or municipally owned water utilities.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No water district shall be merged or dissolved as provided in Sections 6 or 8 of this Act without the prior written approval of the public service commission.

(2) Following fiscal court action to merge or dissolve a water district, the county judge/executive shall notify the public service commission of the merger or dissolution of the water district.

Section 22. KRS 74.416 is repealed and reenacted as a new section of KRS Chapter 65:

Before any water district in a county containing a city of the first class shall undertake the construction of a sanitary sewer system, such district shall first obtain the written approval of whatever agency of the county, if any, by other statute, possesses county-wide authority over sanitary sewer systems.

Section 23. KRS 75.050 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

Any fire protection district, [created as provided in KRS 75.010, and] any [fire protection district or] fire prevention district [hereafter created pursuant to present or future law], and any municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, may, through its governing body, make and enter into contracts with any other fire protection district, fire prevention district, municipal corporation, volunteer fire department, volunteer fire prevention unit, or volunteer fire protection unit, either within the same county or within an adjoining county in an area adjacent to the boundary line between the counties, for the furnishing or receiving of fire protection services for all property within the confines of the area included in and covered by the contract or contracts, where such fire protection is not otherwise provided by some division of government or governmental agency. Similar contracts may be made and entered into between any county and an adjoining county, or between any county and any one or more municipalities or districts, departments or units of the character above mentioned, located either within the county or within an adjoining county in an area adjacent to the boundary line between the counties. The personnel and equipment of a contracting party, in going to and returning from a fire, or in answering and responding to a false fire alarm or call, and while endeavoring to extinguish fires within the area covered by the contract, shall be deemed and hereby is declared to be engaged in the exercise of a governmental function.

Section 24. KRS 75.060 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

All municipal firemen, fire protection district firemen, and volunteer fire department firemen, full-paid or volunteer, attending and serving at fires or doing fire prevention work outside the corporate limits of a municipality, fire protection district, or volunteer fire department district as provided in *Section 23 of this Act* [KRS 75.050], or area normally served by a volunteer fire department, shall be considered as serving in their regular line of duty as fully as if they were serving within the corporate limits of their own municipality, fire protection district, or area normally served by a volunteer fire department, but full-paid firemen shall receive no additional compensation and volunteer firemen shall receive only such compensation as may be provided for by ordinance or resolution in such cases, and [all such] firemen shall be entitled to all benefits of any pension fund earned pursuant to KRS Chapters 67A, 78, 79, 90 or 95, in the same manner as if the firefighting or fire prevention work had been within the corporate limits of the municipality, or area normally served by a volunteer fire department.

Section 25. KRS 75.070 is repealed and reenacted as a new section of KRS Chapter 65:

(1) A municipal fire department, fire protection district fire department, and volunteer fire department and the personnel of each, answering any fire alarms, performing fire prevention services, or other duly authorized emergency services inside and outside of the corporate limits of its municipality, fire protection district, or area normally served by a volunteer fire department, shall be considered an agent of the commonwealth of Kentucky, and acting solely and alone in a governmental capacity, and such municipality, fire protection district, or area normally served by a volunteer fire department, shall not be liable in damages for any omission or act of commission or negligence while answering an alarm, performing fire prevention services, or other duly authorized emergency services.

(2) No municipal fire department, fire protection district fire department or volunteer fire department answering any fire alarms, performing fire prevention services or volunteer fire department services inside the corporate limits of the district shall be liable in damages for any omission or act of commission or negligence while answering or returning from any fire or reported fire, or doing or performing any fire prevention work under and by virtue of this chapter and said fire departments shall be considered agents of the commonwealth of Kentucky, and acting solely and alone in a governmental capacity.

SECTION 26. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger alteration of service area, or dissolution of a flood control district, and of any other activities of a flood control district that the secretary may request.

Section 27. KRS 173.480 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

Upon the creation of a *library* district, the *county judge/executive* [fiscal court of each county in the district] shall [at once] notify the department of libraries of the establishment of the *library* district. The department of libraries shall then recommend to the county judge/executive [s of each county in the district] the names of suitable persons from that county to be appointed to the board. The department of libraries in recommending persons to the county judges/executive [s] for appointment to the board shall recommend twice as many persons [for each county] as the *number of vacancies* [county is entitled to have members appointed], and the county judges/executive [s] shall [immediately] make his selection from those recommended. [Where the district consists of one (1) county, the county judges/executives shall appoint five (5) persons from that county as members. The department of libraries shall prescribe by regulation the number of board members when the district consists of more than one (1) county, provided that the board shall consist of not less than one (1) nor more than four (4) members from each county, each county having such number of members as the proportion of its population bears to the total population in the district consists of more than one (1) county, provided that the board less than five (5) members. Where a county joins an already established district, the department of libraries shall recommend to the county judges/executives of each county included in the new district twice as many persons for appointment to the board as the county is entitled to have appointed, and the county judges/executives shall select the members for his county from this list. The terms of the members of the counties composing the previously existing district shall expire immediately upon the organization of the new board.]

Section 28. KRS 173.520 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

[(1)] The board *of a library district* shall establish, equip and maintain libraries or contract with existing libraries for the furnishing of library service for the *library* district and do all things necessary to provide efficient library service. No *library* district shall establish a library unless the plans for the establishment, equipment and maintenance have been approved by the department of libraries. No contract shall be made unless the libraries contracting to furnish service are libraries approved by the department of libraries for this purpose. The board *of a library district* shall meet annually and at such other times as it deems necessary.

[(2) The district, as a body corporate, by and through the board may:

(a) Sue and be sued, complain and defend, purchase, or lease grounds, purchase, lease, occupy or erect appropriate buildings for the use of the district libraries and their branches, sell and convey real and personal property for and on behalf of the district, receive gifts of real and personal property for the use and benefit of the district, the same when accepted to be held and controlled by the board according to the terms of the deed, gift, devise or bequest of such property;

(b) Borrow money on the credit of the board in anticipation of the revenue to be derived from taxes levied by the district for the fiscal year in which the money is borrowed, and to pledge the taxes levied for the district for the payment of the principal and interest of the loan. The principal shall not exceed 50 per cent of the anticipated revenue for the fiscal year in which the money is borrowed;

(c) Establish bylaws it deems necessary and expedient to define the duties of officers, assistants or employes and make all necessary rules and regulations governing libraries and library service within the district.

(3) The board in exercise of its powers shall be guided by the regulations and requirements of the department of libraries.

(4) The powers set forth in this section shall not be construed to limit, restrict or modify any powers or authority granted by any other part of KRS 173.450 to 173.650 or any other law not in conflict with the provisions of this section.]

Section 29. KRS 173.530 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

The board *of a library district* shall appoint a district librarian and such assistant librarians as it deems necessary. The district librarian shall be certified in accordance with the provisions of KRS 171.240 to 171.300.

Section 30. KRS 173.570 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

Within sixty (60) days after the close of each fiscal year the board *of a library district* shall make a written report to the department of libraries. A copy of this report shall be filed with the county clerk of each county within the *library* district. The report shall contain:

(1) An itemized statement of the various sums of money received for the district;

(2) An itemized statement of expenditures from the fund;

(3) A statement of the property acquired by devise, bequest, purchase, gift or otherwise during the fiscal year;

(4) A statement of the character of library service furnished to the district during the fiscal year; and
(5) Any other statistics or information requested by the department of libraries.

Section 31. KRS 173.590 is repealed and reenacted as a new section of KRS Chapter 65:
Public library district librarians shall be required to attend all library workshops sponsored by the department of libraries, the actual and necessary expenses incident thereto being a charge against the district library fund.

SECTION 32. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:
No library district shall be dissolved, as provided in Section 8 of this Act, or merged, as provided in Section 6 of this Act, without the written approval of the state librarian of the department of libraries.

SECTION 33. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:
No public health taxing district shall be dissolved, as provided in Section 8 of this Act, or merged, as provided in Section 6 of this Act, without the written approval of the secretary of the department for human resources.

Section 34. KRS 216.337 is amended to read as follows and reenacted as a new section of KRS Chapter 65:
The board *of a hospital district*, in cooperation with regional or state comprehensive health planning councils, where established, shall plan for the unmet hospital needs in the *hospital* district.

Section 35. KRS 216.347 is amended to read as follows and reenacted as a new section of KRS Chapter 65:
Within sixty (60) days after the close of each fiscal year the board *of a hospital district* shall make a written report to the secretary *of the department for human resources*. A copy of this report shall be filed with the county court clerk of each county within the *hospital* district. The report shall contain:
(1) An itemized statement of the various sums of money received for the *hospital* district;
(2) An itemized statement of expenditures from the fund;
(3) A statement of the property acquired by devise, bequests, purchase, gift, or otherwise during the fiscal year;
(4) A statement of the character of hospital services furnished to the *hospital* district during the fiscal year; and
(5) Any other statistics or information requested by the department for human resources.

SECTION 36. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:
The county judge/executive shall notify the secretary of the department for human resources of the creation, merger, alteration of service area, or dissolution of a hospital district, and of any other activities of a hospital district that the secretary may request.

SECTION 37. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:
The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a sanitation district, and of any other activities of a sanitation district that the secretary may request.

Section 38. KRS 220.240 is amended to read as follows and reenacted as a new section of KRS Chapter 65:
Upon the completion of the plan *of service as required in Section 4 of this Act* the *petitioners for a sanitation district* [board of directors] shall submit it to the department for natural resources and environmental protection for approval. If the department for natural resources and environmental protection refers the plan back for amendment, the *petitioners* [board of directors] shall prepare and submit an amended plan. If the department for natural resources and environmental protection rejects the plan, the *petitioners* [board of directors] shall proceed [as provided in KRS 220.220] to prepare another plan. If the department for natural resources and environmental protection approves the plan, a copy of the action of the department for natural resources and environmental protection shall be filed with the *fiscal court* [secretary of the board of directors] and [by him] incorporated into the records of the district.

Section 39. KRS 220.250 is amended to read as follows and reenacted as a new section of KRS Chapter 65:
Upon the approval of the [official] plan *of service* by the department for natural resources and environmental protection *and contingent upon the creation and certification of the district by the fiscal court,*

the board of directors *of the sanitation district* shall pass a resolution accepting the official plan as final and fixing all financing, taxes and rentals as authorized by *Section 10 of this Act* [KRS 220.010 to 220.520] necessary for the construction, maintenance, and operation required to place the plan in effect. After final resolutions are passed fixing the rates and rentals, no alterations of the plan shall be made except as provided *in this Act* [herein] and as approved by the department for natural resources and environmental protection.

Section 40. KRS 220.260 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

After the establishment of the *sanitation* district and the organization of the board of directors, no person or public corporation shall install within the *sanitation* district any laterals, trunk lines, interceptors for the collection or discharge of sewage or other liquid waste, treatment or disposal works, until the plans therefor have been submitted to and approved by the board of directors of the *sanitation* district and the department for natural resources and environmental protection. Any installation contrary to the provisions of this section shall constitute a nuisance and shall be abated by injunction upon proper application by anyone aggrieved, including the *sanitation* district, the commissioner, or the department for natural resources and environmental protection.

Section 41. KRS 220.320 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

Where necessary in order to secure the best results from the construction, operation and maintenance of the works and improvements of the *sanitation* district or construction subdistricts and to prevent their damage from misuse, the board of directors *of a sanitation district* may make and enforce regulations pertaining to the use by persons and public corporations of the works and improvements of the district or construction subdistricts. Such regulations may prescribe the design, construction and use of sewers within the *sanitation* district or construction subdistricts and the manner in which connections to laterals, trunk sewers, intercepting sewers and to other works of the *sanitation* district or construction subdistricts shall be made, may prevent the unnecessary pollution of any watercourse or supply within the *sanitation* district or construction subdistricts and may prohibit the discharge into such sewers of any wastes deemed detrimental to the works and improvements of the *sanitation* district or construction subdistricts. Such regulations shall have no effect until approved by the department for natural resources and environmental protection. The board may recover by civil action from any person or public corporation violating such regulations, a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, together with costs. The directors may enforce by mandamus or otherwise all necessary and authorized regulations made by them, and may remove any improper construction or close any connections made improperly or in violation of the regulations. Any person or public corporation willfully failing to comply with the regulations shall be liable for damages caused by such failure and for the cost of renewing any construction damaged or destroyed.

Section 42. KRS 220.360 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

If the charter of a sanitation district permits, the board of directors, as soon as duly appointed and qualified, may levy one (1), two (2), or three (3) annual taxes, which taxes need not be in successive years, of not more than fifteen cents (15¢) upon each one hundred dollars ($100) of assessed valuation of property within the *sanitation* district, to be used for the purpose of paying the expenses of organization, surveys and plans, and for other incidental expenses that may be necessary up to the time money is received from the sale of bonds. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The tax shall be based upon the last preceding assessment for state and county purposes, its collection shall conform to the collection of taxes for counties, and the same provisions concerning the nonpayment of taxes shall apply. The tax shall be added by the county clerk to the next state and county tax bill following the levy of the tax by the board of directors *of the sanitation district*, and shall be collected concurrently with the state and county taxes. Neither the property valuation administrator nor the county court clerk shall be entitled to any additional compensation for the services rendered in connection with the listing of the property for taxation [nor shall the sheriff receive any additional compensation for the collection of the tax].

Section 43. KRS 220.520 is amended to read as follows and reenacted as a new section of KRS Chapter 65:

The reasonable cost and value of any services rendered to a city, county, school district or other municipal corporation by the *sanitation* district may be charged to the city, county, school district or other municipal corporation and shall be paid for monthly, as the service accrues, from current funds or the proceeds of taxes. The funds so paid shall be accounted for in the same manner as other revenues of the *sanitation* district.

Section 44. KRS 249.520 is repealed and reenacted as a new section of KRS Chapter 246:

There is established a committee on mosquito control consisting of the commissioner of agriculture as ex officio chairman, the commissioner of health services, the commissioner of natural resources, the commissioner of fish and wildlife resources, the commissioner of highways and the state entomologist. Any of such members may be represented in meetings of the committee by their deputies or other personnel designated in writing. The members of the committee shall serve without compensation, but may be reimbursed for expenses incurred in the performance of their duties.

Section 45. KRS 249.530 is amended to read as follows and reenacted as a new section of KRS Chapter 246:

(1) The committee is authorized to accept and allocate or expend any grants-in-aid for mosquito control purposes which may be made available to the state by the federal government.

(2) Upon the approval of the committee, funds received by the department of agriculture for permanent mosquito control purposes may be utilized to aid local governmental units, other than mosquito control districts, undertaking projects having significant mosquito control benefits. In no case shall the grant of such funds exceed five per cent (5%) of the capital costs of such project nor fifty per cent (50%) of the annual operating expenses of such unit.

(3) The department *of agriculture* shall act as fiscal agent in contracting for receipt and expenditure of all funds made available to the committee and shall provide all administrative services required to carry out the functions of the committee.

(4) In no case shall the monetary value of the aid provided with state funds to mosquito control districts exceed that provided locally for temporary control measures such as larviciding or adulticiding, nor twice the local funds provided for permanent improvements such as draining, filling, diking and impounding.

(5) State aid shall not be given to mosquito control districts until the work or project plans for which the grant is being made are submitted to and approved by the committee or its duly authorized representative, and proof has been received by the department *of agriculture* that required local funds are available.

SECTION 46. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall notify the secretary of the department for natural resources and environmental protection of the creation, merger, alteration of service area, or dissolution of a watershed conservancy district, and of any other activities of a watershed conservancy district that the secretary may request.

SECTION 47. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The county judge/executive shall be fined as provided in KRS 68.990(5) for violations of the provisions of Sections 14, 15, and 17 of this Act.

Section 48. (1) The following KRS Statutes are repealed.

65.005 Notice to county court clerk of establishment of political subdivision — Duties of clerk — Fee — Notice by existing districts.
74.010 Creation — Notice — Procedure — Fee.
74.110 Change of districts — Procedure — Deficit.
74.115 Extension of district into adjoining county.
74.363 Merger of water districts — Transfer of assets — Payment of obligations.
74.367 Discontinuance of water district — Procedure.
75.010 Establishment of fire protection or volunteer fire department district.
75.020 Annexation or reduction of territory — Assumption by city of debt.
75.025 County fire protection district — How organized — Powers.
104.460 Power of commissioner of natural resources to establish districts.
104.480 Petition for district — Signature requirements.
104.490 Contents of petition.
104.500 Amendment of petition — Multiple petitions.
104.510 Bond or deposit for costs.
104.520 Boundaries of district — Determination of — When cities of first three classes may be included.
104.530 Notice of application for creation of district.
104.540 Court action opposing creation of district.
104.550 Certificate of establishment of district — Issuance — Filing — General powers of district.
104.560 Conclusiveness of certificate.
107.320 Community improvement district authorized for county containing a first-class city — Corporate powers.

108.030 Council and director.
108.050 Procedure for establishment of district.
108.070 Addition of territory — Territory in two or more counties.
108.100 Procedure for organization of districts.
173.460 Public library district — Taxation — Purpose.
173.470 Organization — Procedure — Special tax.
173.620 Annexation — Procedure.
173.640 Conduct of elections.
173.650 Certification of election results.
173.715 County or counties may become library district.
173.720 Organization of district — Procedure — Petition — Tax levy.
173.725 Library board — Members, number, appointment.
173.745 Powers and duties of board.
173.750 Librarians, appointment.
173.770 Annual report.
173.780 Attendance of librarians at meetings.
173.790 Increase or decrease in tax levy — Procedure.
173.795 Annexation of counties to district.
184.010 Public road districts authorized in counties containing city of first or second class.
184.020 Sponsorship of road district — Preparation of map, estimate of cost, and petition.
184.030 What petition to contain.
184.040 Filing of petition — Examination and approval by county road engineer — Hearing before county judge/executive — Notice.
184.050 Trial of objections — Appeal.
184.060 Order establishing district — Appointment of board of directors — Qualifications — Term — Vacancies.
212.720 Election for creation of public health taxing district.
212.725 Imposition of special ad valorem public health tax.
212.740 Expenditures of special health tax moneys.
212.750 Public health taxing district created in counties not electing to create same — Officers.
212.755 Tax levy for district to be made on request of board — Limits — Compensating rate limits not applicable.
212.760 Public health taxing districts exempt from compensating tax rate.
215.080 Tuberculosis sanatorium districts authorized.
215.090 Establishment of sanatorium district for one county by fiscal court — Appropriation.
215.100 Establishment for several counties by fiscal courts — Appropriation — Apportionment of expense.
215.110 Establishment by election.
215.120 Election in one county.
215.130 Election in several counties.
215.140 County may join established district.
215.150 Establishment and maintenance of district upon certification of favorable election.
215.160 District board of trustees — How appointed — Membership — Qualifications.
215.340 Application for state aid must be approved by state board of health.
215.345 State aid for tuberculosis sanatoria operated by city-county board of health — Application.
215.350 Sanatoria visitation — Removal of trustees and employes — Rules and regulations.
215.355 State board of health to visit, inspect and regulate sanatoria operated by city-county boards of health.
216.310 Purpose of law.
216.315 Commissioner of health as commissioner of hospital districts.
216.317 Establishment of hospital district — Petition — Referendum — Tax — Petition of majority of voters, form.
216.318 Alternative method for establishing hospital district.
216.319 Requirements for district established under KRS 216.318.
216.320 Fiscal court to recommend and commissioner to establish district, when — Taxing district.
220.020 Commissioner of sanitation districts — Power to establish districts.
220.030 Purposes for which sanitation district may be established.
220.040 Petition necessary to establish district — Requisites.
220.050 Contents of petition.
220.060 Defects in petition may be corrected — Joint petitions.

220.070 Security for costs of establishment proceedings.
220.080 Boundary of proposed district — Investigation — Change — Inclusion of city property restricted.
220.090 Publication of application to create district.
220.100 Objection to establishment of district — How made — Trial — Appeal.
220.110 Declaration and certification of organization — Status and powers of district.
220.120 Conclusiveness of certificate.
220.220 Board to prepare plan for improvements.
220.510 Charges for sewer service — Collection by action — Cutting off water service if sewer service charges not paid — Contracts with large users — Administration of revenue.
220.535 Petition for annexation of territory to district.
220.536 Investigation and establishment of territorial boundaries — Inclusion of city — Notice to residents of territory.
220.537 Procedure for protest against proposed annexation.
220.540 Effect of sanitation district law on other statutes.
249.510 Mosquito control districts — Creation — Purpose — Boundaries.
249.540 Petition to establish county mosquito control district.
249.551 Tax levy on filing of petition — Form of petition.
249.560 District board of supervisors — Appointment — Terms — Compensation.
249.570 Officers of board — Election — Oath — Bond.
249.580 Powers and duties of board.
249.590 Fiscal year of district.
249.600 Submission by board of plan of procedure and operation to fiscal court.
249.610 District tax levy — Collection — Disbursement.
249.620 Joint operation of districts.
249.631 Dissolution of district — Petition — Procedure.
262.700 Watershed conservancy districts — Formation — Purposes.
262.707 New district within an established district.
262.710 Petition for formation — Contents — Filing.
262.715 Formation of districts in areas involving more than one soil conservation district — Filing petition — Board of supervisors.
262.720 Notice — Parties — Hearing — Determination.
262.725 Referendum — Notice — Polling officers.
262.730 Ballots — Eligibility of voters — Absentee voting.
262.735 Tabulation of votes — Certification — Filing.
262.740 Board of directors — Election — Membership — Terms — Officers — Bond of treasurer — Nominating petitions — Qualification of members.
262.780 Petition for annexation of lands — Requirements — Parties — Hearing — Determination.
262.785 Petition for detachment of lands — Requirements — Hearing — Determination.
266.020 Petition to construct levee — Bond.
266.025 Multi-county levee districts.
266.030 Appointment of commissioners for proposed levee.
266.040 Duties of commissioners — Report.
266.050 Action if commissioners' report is favorable.
266.060 Proceedings if no exceptions are filed.
266.070 Proceedings if exceptions are filed.
266.080 Appeal from decision establishing or refusing levee.
266.090 Order establishing levee — Entry — Conditions.
267.020 Power of county court to make improvements.
267.030 Petition for improvement — Petitioners' bond.
267.040 Board of viewers — Appointment — Oath.
267.050 Examination and report of viewers — Petition dismissed if report unfavorable.
267.060 Proceeding on favorable viewers' report.
267.070 Appeal from decision on exceptions.
267.080 Confirmation of report — Establishment of district.
267.550 Fiscal court to control improvements made by general taxation — Use.
267.560 Appropriations to aid district.
268.020 County may establish district.
268.030 Proceedings to establish district — County that has jurisdiction.
268.040 Petition for improvement — Bond.

268.060 Board of viewers — Appointment — Qualifications — Oath.
268.070 Examination and report of viewers.
268.080 Notice of fiscal court proceeding.
268.090 Clerk's certificate of notice.
268.130 Hearing by court on exceptions to viewers' report — Order to establish district.
268.140 Order establishes district — Owners bound by order — Fees of county officers — Duties of clerk.
268.150 Orders referring district to board and continuing proceedings.
268.630 Improvements of other authorities not affected — Joint use — Appropriations by county or city to aid district.
269.070 County may drain land — Payment of cost — Acquisition of necessary land.
269.270 County surface water drainage districts.

(2) The following Statutes are repealed two (2) years after the effective date of this Act:

74.020 Appointment of commissioners — Number — Terms — Vacancies — Organization — Bond — Compensation.
74.030 Legal services — Payment.
74.040 Superintendent — Employes — Expenses — Salary.
74.050 Treasurer — Duties — Compensation — Bond.
74.070 Duties and powers of commission.
74.075 Establishment of fire protection district by water district.
74.076 Limits — Commissioners.
74.077 Postponement of organization pending decision on prior action.
74.080 Rates and regulations.
74.090 Condemnation.
74.100 Acquisition of existing systems — Extension of mains and laterals — How paid for.
74.120 Incorporated city may be included in district — Contract with city.
74.130 Classification of lands for assessments — Report.
74.140 Acceptance of report — Notice — Final hearing.
74.150 Assessment roll — Statement of costs — Hearing — Final order.
74.160 Striking assessments from roll — Procedure.
74.170 Payment of assessments in thirty days — Constructive consent to bond issue.
74.180 Issuance of bonds for unpaid assessments.
74.190 Collection of unpaid instalments — Sale of land — Redemption — Settlement with collecting officers — Fees.
74.200 Modification of assessment — Relevy.
74.210 Lien of assessments.
74.220 Assessment roll as evidence — Enforcement of liens — Proceedings — Costs.
74.230 Effect of irregularity — Exclusive remedies — Effect of release.
74.240 Record of expenses to be kept — Apportionment of expenses — Financial report to consumers — Books to be open for inspection.
74.250 Fees — Costs.
74.260 Letting of work — Notice — Procedure — Bond of bidder.
74.270 Monthly estimates — Payment.
74.280 Additions may be acquired.
74.290 Issuance of bonds for additions.
74.300 Payment of bonds for additions — Operating and depreciation funds.
74.310 Receiver on default.
74.320 Refunding bonds authorized.
74.330 Issuance — Form of bonds — Signatures.
74.340 Interest payments and repurchase of bonds out of sinking fund — Bonds negotiable and nontaxable.
74.350 County may pay part costs.
74.360 Manner of giving notices required by this chapter.
74.370 Construction, acquisition or enlargement of system by issuance of revenue bonds.
74.380 Refunding assessment bonds with revenue bonds.
74.390 Revenue bond plan is alternative.
74.400 District may acquire, develop, maintain and operate gas system — Procedure.
74.401 Gas system established only if primary supply in district or county.
74.405 Gas distribution system to be administered by water commissioners.
74.407 Operation of sewage disposal systems.

74.408 Board to determine order in which water, gas or sewage service is to be commenced.
74.410 Revenue bonds may be issued as provided in KRS 58.010 to 58.140.
74.412 Extending lines through territory of other political subdivision.
74.414 Contract with other municipality or district for services.
74.415 Commissioners may specify standards for fire hydrant spacing for new water lines.
74.990 Penalties.
75.031 Trustees, selection, terms — Vacancies — Elections for part of trustees — Officers.
75.040 Power to operate fire department — Tax — Levy, assessment and collection of.
75.080 Erection of fire hydrants.
75.100 Definitions for KRS 75.100 to 75.260.
75.110 Appointment of special firemen — Rules — Powers of.
75.120 Board to control fire department and property — Appointment of fire chief and members of fire department — Compensation — Volunteer firemen — Reduction of personnel.
75.130 Discipline of members and employes — Substitution of terms.
75.140 Appeals.
75.150 Political activities of members.
75.160 Attendance of chief at board meetings — Definition of chief — Members as peace officers.
75.170 Oath and bond of members.
75.180 Duties and powers of chief and members — Reimbursement of private owners for water used.
75.240 Board minute book — Contents — Where kept — Inspection.
75.250 Board may employ counsel — Duties — Compensation — Duties of county attorney.
75.255 Annual audit and audit report — Expense — Exemption.
75.260 Compensation of board members — Time and place of board meetings.
104.450 Definitions for KRS 104.450 to 104.680.
104.470 Districts — When may be established — Purpose — Boundaries.
104.570 Office and records of district.
104.580 Board of directors — Appointment — Qualifications — Term — Vacancies.
104.590 Oath and bond of directors.
104.600 Quorum of board — How business conducted.
104.610 Officers and employes of board — Seal — Records — Expenses — Rules and regulations — Civil liabilities — Audits.
104.620 Secretary — Duties — Attestation of records.
104.630 Treasurer — Duties — Bond — Countersigning of checks.
104.640 Attorney, engineer, and other employes — Supplies and equipment.
104.650 Contracts for work, materials or supplies.
104.660 Stream and rain gages, scientific survey, etc. — Reports.
104.670 Tax for district, levy and collection of.
104.680 Depreciation fund — Operation and maintenance fund.
107.310 Definitions.
107.330 Purpose of district.
107.340 Board of commissioners — Membership — Terms — Officers — Compensation — Quorum.
107.350 Levy of ad valorem tax.
107.360 Submission of question of project to voters — Procedure on approval.
107.370 Powers of board.
107.380 Annual report.
107.390 Condemnation powers of board.
107.400 Approval necessary to condemnation action.
107.410 Lease of buildings and facilities to governmental units — Sublease.
107.420 Contract of lease prior to acquisition of site and construction of buildings.
107.430 Lease options.
107.440 Conveyance or lease of land by governmental unit to district.
107.450 Revenue bonds authorized.
107.460 Prerequisites to issuance of bonds.
107.470 Power to borrow money — Pledge of taxes or anticipated income.
107.480 Applicability of KRS 61.390.
107.490 Contract with county for administrative functions — Approval of expenditures.
107.500 Conveyance to federal government not limited.
108.010 Authority to create districts.
108.020 District's powers.
108.040 Director — Appointment — Powers and duties.

108.060 Civil service for employes.
108.080 Definitions for KRS 108.080 — 108.180.
108.090 Legislative Purpose.
108.110 Board of directors — Appointment — Terms of office — Vacancies — Quorum.
108.120 Oath and compensation of director.
108.130 Employment of attorney.
108.140 Powers and duties of directors.
108.150 Minute book.
108.160 Dissolution of single county districts.
108.170 Dissolution of multi-county districts.
108.180 Withdrawal of membership by county.
173.450 Definitions for KRS 173.450 to 173.650.
173.490 Terms of board members.
173.500 Board constitutes body corporate — Name — Seal — Officers — Bond — Meetings — Quorum.
173.510 Expenses.
173.540 Duties of treasurer of board.
173.550 Records to be kept open.
173.560 Fiscal year.
173.580 Attorney — Compensation.
173.600 Revenue bonds.
173.610 Tax rate change prohibited except by vote of people — Procedure — Limitation.
173.630 Dissolution — Procedure.
173.710 Definitions for KRS 173.710 to 173.800.
173.730 Board members — Terms — Vacancies.
173.735 Corporate name — Seal — Officers — Treasurer's bond — Meetings — Quorum.
173.740 Board members to receive expenses.
173.755 Treasurer of board, duties.
173.760 Records open for state audit.
173.765 Fiscal year.
173.775 Attorney for board, employment, authority.
173.785 Revenue bonds may be issued.
173.800 Dissolution of district, procedure.
184.070 Oath and bond of directors.
184.080 Powers and duties of board of directors — Officers — Employes — Compensation — Regulations — Approval of accounts and acts of directors — Dissolution of district.
184.090 Meetings of board.
184.100 Approval of plans and specifications by board — Preliminary costs.
184.110 Advertisement for bids for road construction or maintenance — Letting of contract.
184.120 Determination of cost — Assessment against owners.
184.130 Lien of assessments.
184.140 Notice of assessment — Methods of payment.
184.150 Agreements for payment on ten-year plan — When payments due.
184.160 Entire assessment due in absence of agreement — Interest — Collection.
184.170 Execution of agreement by life tenant or person under disability.
184.180 Privilege of prepayment.
184.190 Notice of maturity of instalments.
184.200 Penalty in case of instalment default — Acceleration — Enforcement of lien.
184.210 Application of money from instalment payments, interest and penalties.
184.220 Foreclosure of liens — Redemption.
184.230 Lis pendens notices make liens effective.
184.240 Authority to issue apportionment warrants or road district bonds.
184.250 Form of apportionment warrants — Sale.
184.260 Road improvement bonds — Form — Terms — Tax exemptions — Rights of holders — Payment.
184.270 Sale of bonds — Sources of payment.
184.280 Duties and liabilities of treasurer of district — Bond.
184.290 Effect of sale of land on other liens.
184.300 Parties in action to foreclose lien — Application of proceeds — Pleadings — Purchase at sale by district.
215.170 Term of office of board members — Vacancies.

215.180 Organization of board — Officers — Quorum.
215.190 Trustees not compensated — Expenses paid.
215.200 Powers of board.
215.210 Selection of site — Approval of site and plans by state board of health.
215.220 Visitation by trustees — Reports by superintendent and officers — Annual meeting of board.
215.230 Payment of taxes to board of trustees.
215.240 Trustees and employes not to be interested in sanatorium's contracts.
215.250 Duties of treasurer.
215.260 Records open to auditor.
215.270 Medical superintendent — Appointment — Qualifications — Removal — Temporary superintendent.
215.280 Powers and duties of medical superintendent — Assistants and employes — Fees.
215.290 Conditions of admission as free patient — Number of patients.
215.300 Maintenance of patients able to pay to be recovered by county attorney — Liability of relatives.
215.310 Sanatorium may accept paying patients — Fees.
215.320 State aid for acquisition and operation of district sanatoria.
215.330 State aid conditioned on compliance with regulations.
215.360 Sanatorium property not utilized may be sold or leased.
215.370 Division of proceeds of sale in a joint district.
215.380 Dissolution of district on sale of property.
215.390 County may contract for care of its patients in sanatorium of another district — Diversion of funds collected for sanatorium.
216.313 Definitions.
216.323 District board — Members — Number, how determined.
216.325 Terms of members — Vacancies.
216.327 Qualifications of members.
216.330 Members to be reimbursed for expenses.
216.333 Board as corporate body — Seal — Officers — Bond of treasurer.
216.335 Powers of board.
216.340 Treasurer of board, duties.
216.343 District records to be audited.
216.345 Fiscal year of district.
216.350 Administrator, functions.
216.353 Revenue bonds, district may issue.
216.355 District board may accept federal or state grants.
216.357 Dissolution of district, procedure.
216.360 Winding up of affairs on dissolution — Disposition of funds.
220.010 Definitions for KRS 220.010 to 220.540.
220.130 Office and records of district.
220.140 Board of directors — To manage district — Qualifications — Appointment — Terms — Vacancies.
220.150 Oath and bond of directors.
220.160 Quorum — Action to be by resolution — Votes to be recorded.
220.170 Officers of board — Seal — Records — Powers — Compensation — Regulations.
220.180 Duties of secretary — Certified copies of records.
220.190 Duties of treasurer — Bond.
220.200 Employes of district — Supplies and equipment.
220.205 Group insurance for employes may be provided.
220.210 Duties of chief engineer.
220.230 Other surveys may be used.
220.270 Power to carry out plan by direct labor or contract.
220.280 Powers of board limited — Private connections — Type of improvements authorized — Rights as to public corporations — Annual audit.
220.285 Power to provide sewer service outside district.
220.290 Contracts for work, material and supplies — How let.
220.300 Real property may be acquired by district.
220.310 Condemnation.
220.330 Removal or adjustment of obstructions.
220.340 Stream and rain gages — Surveys and scientific examinations.
220.350 Contracts for assistance with governments, governmental agencies and others — Operations in adjoining states.

220.370 Borrowing money for preliminary expense.
220.380 Bonds may be issued by district.
220.390 Interest rate on bonds — Time and place of payment.
220.400 Negotiability of bonds — Tax exemption — Signature — How sold — Maximum yield — Not a debt.
220.410 Use of proceeds of bonds.
220.420 Bondholders' lien — Enforcement.
220.430 Receiver in case of default.
220.440 Sinking, operating and depreciation funds to be provided.
220.450 Use of surplus in operating fund.
220.460 Use of depreciation fund — Investment.
220.470 Refunding bonds.
220.480 Additional bonds to complete original project.
220.490 Original issue may include bonds for additions and improvements.
220.500 Subsequent issue of bonds for additions and improvements.
220.510 Charges for sewer service — Collection by action — Cutting off water service if sewer service charges not paid — Contracts with large users — Administration of revenue.
220.530 Annexation of district or part of district by city.
220.553 Construction subdistrict established — Petition — Procedure — Judicial review.
220.554 Construction subdistrict not to include nonconsenting city or district.
220.555 Engineering survey of construction subdistrict — Assessment of benefits — Notice.
220.557 Engineering report filed, when.
220.561 Notice of hearing — Publication — Order of construction and assessment.
220.563 Appeal from order of establishment or assessment — Procedure.
220.565 District may construct or contract for construction — No debts incurred until assessment final.
220.567 Combined methods of financing.
220.571 Assessment of costs — Lien — Payment — Effect of nonpayment.
220.573 Priority of construction subdistrict assessment liens — Enforcement.
220.575 Bonds if assessments not paid — Terms — Payment of assessments in instalments.
220.577 Revenue bonds of construction subdistrict — Procedure — Contents.
220.581 Refunding of bonds secured by assessments.
220.583 Financing may be arranged as in cities, terms in KRS chapter 107 defined.
220.585 Financing by apportionment warrants.
220.587 Financing methods temporarily inadequate, procedure — Contracts.
220.591 Default on revenue bonds — Trustee appointed — Actions by trustee, receiver, powers.
220.593 Rate schedule for construction subdistrict — Notice — Objections — Purposes — Trust fund for revenue bonds.
220.595 Cut off of water supply of user in construction subdistrict.
220.597 Operating and maintenance costs of subdistrict system, how paid.
220.601 Property of district, bonds and income therefrom exempt from tax.
220.603 Annexation to subdistricts, procedure — Effect.
220.605 Sewage systems may become construction subdistricts, when — Incorporated in district when.
220.607 Winding up of construction subdistrict affairs, when, effect.
220.611 Bonds of several construction subdistricts — Purposes, effect.
220.613 Revenue bonds alternate method of financing.
262.705 District area — Requirements of.
262.742 Vacancy on board of directors.
262.745 Powers of board of directors.
262.750 Bonds.
262.755 Compensation of members of board of directors — Expenses.
262.760 Annual budget.
262.763 Audit of accounts — Report of accountant — Publication — Copy of newspaper report to state auditor of public accounts.
262.765 Assessment of taxes — Tax rolls — Tax bills.
262.770 Collection of taxes — Discounts — Penalties — Interest.
262.775 Tax funds — Custody — Disbursement.
262.776 Definitions for KRS 262.776 to 262.779.
262.777 Special assessments and bonds for flood control project, when authorized.
262.778 Resolution for project — Notice, hearing — Election — Declaratory judgment or injunction suit, time for — Issuance of bonds — Levy.

262.779 Annual assessments made, how — Lien.
262.785 Petition for detachment of lands — Requirements — Hearing — Determination.
262.791 District discontinued, when — Hearing referendum.
262.793 Transfer of assets and funds of district on discontinuance to soil and water conservation districts — Proration, when — Collection of revenue for maintenance.
262.795 Fiscal court as board of supervisors on discontinuance of soil conservation district.
262.990 Penalty.
266.010 Levees in certain counties — County court may establish and aid in construction.
266.100 Board of levee commissioners — Appointment — Term.
266.110 Officers of board — Election — Term — Duties — Bond — Compensation.
266.120 Duties of board — Power to enforce aid.
266.130 Board's power to acquire property.
266.140 Board's power to cooperate with federal agencies.
266.150 Board's power to tax.
266.160 Board's power to borrow money and issue bonds.
266.170 Board's power to make additional assessments under drainage law procedure.
266.180 Lien for reconstruction, enlargement, repair or maintenance.
266.190 Provisions for levees in any county.
266.200 Riding on public levee unlawful.
266.210 Hogs, unlawful to permit on public levee.
266.990 Penalties.
267.010 Definitions.
267.090 Drainage directors — Election.
267.100 Board of drainage commissioners created — Powers.
267.110 Officers of board.
267.120 Meetings — Office — Records — Reports — Expenses.
267.130 Drainage engineer — Powers — Duties — Assistants — Survey — Map — Report.
267.140 Conference as to place and method of crossing railroad right of way.
267.150 Adoption of engineer's report — Action of county court, clerk and viewers.
267.160 Viewers' classification of land for assessment — Rate of assessment.
267.170 Report of viewers on classification — Estimate of cost of improvement.
267.180 Cost of construction and assessment of benefits when improvement crosses highway.
267.190 Railroad property benefited shall be assessed.
267.200 Viewers shall assess damages.
267.210 Viewers' final report — Notice — Hearing.
267.220 Court shall refer proceeding to board.
267.230 Drainage record — Copy filed in any county affected.
267.240 Construction contract — Bond — Board may construct.
267.250 Payment for work in instalments — Warrants.
267.260 Contractor's right of access — Obstructions.
267.270 Method of construction when improvement crosses railroad property — Cost.
267.280 Condemnation of land not affected by drainage.
267.290 Assessment roll and statement of cost — What to include.
267.300 Hearing on assessment roll and statement — Notice — Appeal — Filing approved roll.
267.310 Payment and collection of assessments when average below twenty-five cents per acre.
267.320 Bonds authorized when average assessment exceeds twenty-five cents per acre — Failure to pay assessment is consent to bonds.
267.330 Issuance and sale of bonds — Collection of assessment instalments.
267.340 Refunding bonds.
267.350 Board or court may change assessment — Relevy.
267.360 Liability of successor in title — Contribution between several owners.
267.370 Lien of assessments — Enforcement.
267.380 Validity of proceeding — Irregularities — Remedies — Releases.
267.390 Maintenance of improvements — Maintenance assessments.
267.400 Superintendent of drainage — Duties — Bond — Compensation.
267.410 Attorney for board — Agreement — Duties.
267.420 Fees — Costs — Expenses — Compensation of employes and viewers.
267.430 Expenses apportioned among districts.
267.440 County treasurer's duties as treasurer of district — Compensation.
267.450 Landowner's right to use improvement as an outlet.

267.460 Natural drain may become public ditch.
267.470 Obstructions — Landowner liable for damage caused by him.
267.480 Damage or obstruction of improvement.
267.490 Drainage commissioner and board of supervisors in counties having seventy-five or more districts or operating under KRS 267.495.
267.495 Board may elect for county to be subject to provisions of KRS 267.390 (3) (b) and 267.490.
267.500 Establishment of separate districts.
267.510 Board for separate district — Election — Term — Vacancies.
267.520 Powers and duties of district board.
267.530 Amendment of order establishing district.
267.540 Enlargement of district.
267.570 Discontinuance of improvements.
267.990 Penalties.
268.010 Definitions.
268.160 Election of board — Qualifications — Bond — Officers — Powers.
268.170 Office and meetings of the board — Records — Reports — Expenses.
268.180 Board levies preliminary tax — Purpose — Collection — Surplus to district fund.
268.190 Attorney for board — Duties — Assistants.
268.200 Superintendent of drainage — Assistants — Duties — Bonds — Expenses.
268.210 Compensation of officers and employes — Selection of treasurer.
268.220 Treasurer acts for all boards in county — Bond — Audit of books — Statement of accounts — Issue and form of warrant — Interest on unpaid warrants.
268.230 Record of proceedings of the board.
268.240 Board to keep account of time and expenses — Apportionment — Annual report of officers.
268.250 Chief engineer — Powers and duties — Report — Compensation of engineers.
268.260 Plan for reclamation — Board appoints appraisers — Duties — Oath — Election of chairman.
268.270 Appraisers' work and report on benefits and damages — Cost of improvement.
268.280 Notice of hearing on appraisers' report — Form.
268.290 Determination of correctness of appraisers' report — Proceedings to abandon improvement — Action of board — Appeal.
268.320 Benefits assessed to certain property — Passage of title to district.
268.330 Board may borrow money.
268.340 Computation of minimum district assessment — District interest assessment — Maximum district assessment.
268.350 Drainage assessment record form — District assessment table.
268.360 Copies of assessment record filed with clerk — Clerk's notice — Determination of objection — Final order.
268.370 Board may issue bonds — Terms — Use of proceeds — Duties of treasurer — Bond — Duties of county clerk — Warrants for payment.
268.380 Cost of improvements not to include interest charges — Assessed enhanced value conclusive as to benefits.
268.390 Seal of board on assessment record — Notice and payment of assessments — Determination as to bond issue.
268.400 District assessment register — Preparation by secretary — Sheriff receipts register — Copies to counties in district.
268.410 Board certifies to sheriff amount of instalment due — Form of certificate — Collector's drainage assessment book.
268.420 Collection of assessments by sheriff — Fee — Returns to treasurer — Delinquency penalty — Sale of assessment lien claims.
268.430 Treasurer may receive payment of assessments — Certification of unpaid assessments — Collection not defeated by irregularity.
268.440 Payment in advance of full assessment levied.
268.450 Board may defer payment of assessment — Interest instalments to cover cost of bonds.
268.460 Board may abate change in date of collecting assessment.
268.470 Board may levy maintenance assessment — Terms — Purpose — How recorded — Collection.
268.480 Owners may maintain improvements — Credit slip for work done — Terms — Use.
268.490 Lien for assessments — Rank.
268.500 Subsequent owner's privity — Apportionment of assessment.
268.510 Board may make improvements, control water power — Condemn property.
268.515 Power of condemnation.

268.520 Board may construct or let contract for improvement — Bond — Supervision by chief engineer.

268.530 Board to build bridges and culverts — May charge cost to corporation acting under franchise or cause corporation to construct.

268.540 Construction — Payment of cost and maintenance of bridge over drain crossing right of way of railroad or other franchise corporation.

268.550 Drain crossing public highway — When county constructs bridge or culvert.

268.560 Natural drain into which public drain empties to be under board — Removal of obstructions in public drain.

268.570 Owner may use drain as outlet — May condemn intervening land.

268.580 Owner to pay for damage to improvement caused by him — No person to obstruct improvement.

268.590 Board may amend plan for reclamation so as to provide for additional improvements — May levy additional assessments.

268.600 Court, upon petition, may extend district — Amend plan for reclamation — Appoint appraisers — Notice.

268.610 Hearing on petition to amend plan — Duties of clerk after judgment — Compensation — Order of appraisal — Costs.

268.620 Use of other improvements or property in plan to prevent overflow.

268.640 Distribution of funds on dissolution of district.

268.650 Discontinuance of improvement.

268.990 Penalties.

269.010 Issue of refunding bonds for drainage, levee or reclamation district — Maturity — Interest rate — Exchange of bonds or sale and use of proceeds.

269.020 Payment of assessment and release from liability for refunding bonds.

269.030 Notice of intention to refund bonds — Form — Majority of owners may require abandonment of refunding.

269.040 Assessment instalments and taxes to retire refunding bonds — Certification to sheriff — Apportionment and total allowed.

269.050 Refunding taxes collected as are other district taxes — Rights of bondholders.

269.060 District may accept federal benefits.

269.080 Election — Limit of tax — Issue of bonds — Maturity.

269.090 Contract for work — Commissioner appointed if bonds are sold — Tax levy for redemption of bonds.

269.100 Establishment of taxing district for drainage of part of county — Election — Issue of bonds.

269.110 Continuation of drainage corporations — To have benefit of this law.

269.120 Appointment of commissioners by county court — Qualifications — Compensation.

269.130 Oath of commissioners — Filling of vacancy — Quorum.

269.140 Commissioners shall assess land — File report — Contents of report — Error not to invalidate assessment — Subsequent assessments.

269.150 Tax notice — Form — Complaint — Hearing on assessment — Correction and approval of report.

269.160 Circuit court's determination of whether assessment was properly made — Court order conclusive.

269.170 Taxes — When assessed — When payable — Discount — Interest — Office for collection.

269.180 Corporation's lien for taxes — Recording — Limitation — Procedure when tax is paid — Use of taxes.

269.190 Collection of taxes by rule — Enforcement of lien.

269.200 Collection of taxes by suit — Rights of corporation — Form of action.

269.210 Powers of corporation as to ditches — Condemnation of property.

269.220 Extension of district by the county court — Hearing — Appeals — Assessments.

269.230 Fee collected by circuit and county clerks — Annual financial statement of directors of corporation.

269.240 Removal of obstructions from nonnavigable streams or drains by owner in counties of over 250,000 — Inspection and notice by county engineer.

269.250 County engineer to remove obstructions not removed by owner — Lien for and payment of cost.

269.260 Withdrawal of land from drainage district.

The Committee on Public Utilities and Transportation reported **HB 215** with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 215, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) The term "person" means any individual, firm, partnership, corporation, company, association or joint stock association, and includes any trustee, assignee, or personal representative thereof;

(2) The term "bureau" means the bureau of vehicle regulation;

(3) The term "city" means a municipality incorporated under the laws of this state;

(4) The term "state" means the commonwealth of Kentucky;

(5) The term "highway" means all public roads, highways, streets and ways in this state, whether within a municipality or outside of a municipality;

(6) The term "certificate" means a certificate of public convenience and necessity issued under this chapter to common carriers by motor vehicle and *irregular route common carriers and* a *nonprofit bus* certificate issued under this chapter [to irregular route common carriers] authorizing [their] operation thereunder;

(7) The term "permit" means a permit issued under this chapter to contract carriers by motor vehicle and to persons engaging in the business of U-drive-it;

(8) The term "interstate commerce" means commerce between any place in a state and any place in another state;

(9) The term "intrastate commerce" means commerce between any place in this state and any other place in this state.

Section 2. KRS 281.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) The term "carrier" or "motor carrier" means any person who owns, controls, operates, manages, or leases, except persons leasing to authorized carriers, any motor vehicle for the transportation of persons or property for hire upon any highway, and any person who engages in the business of U-drive-it. It shall include common and contract carriers by motor vehicle, city and suburban buses, *holders of nonprofit bus certificates,* driveaways and U-drive-its;

(2) The term "motor vehicle" means any motor propelled vehicle used for the transportation of persons or property on a public highway, including any such vehicle operated as a unit in combination with other vehicles, and including vehicles propelled by electric power obtained from overhead wires whether operating over rails or otherwise.

(3) The term "common carrier" means any person who holds himself out to the general public to engage in the transportation by motor vehicle of persons or property in intrastate or interstate commerce over regular routes, except that persons holding irregular route common carrier authority granted by the interstate commerce commission, taxicabs, and local cartage vehicles are not required to move over regular routes, *and except that the holder of a nonprofit bus certificate shall not be construed to be a common carrier*;

(4) The term "irregular route common carrier" means any person who holds himself out to the general public to engage in the transportation by motor vehicle over irregular routes of specific commodities which have been, or will be, designated by the bureau as exempted commodities, including specific commodities removed from the exempted commodity list by the bureau where the right to engage in the transportation of same has been properly grandfathered into the appropriate authority under the applicable statutes;

(5) The term "contract carrier" means any person who, under individual contracts or agreements, engages in the transportation, other than transportation referred to in subsections (3) and (4) of this section by motor vehicle of passengers or property in interstate or intrastate commerce.

(6) The term "driver" or "chauffeur" means the person physically operating the motor vehicle;

(7) The term "regular seat" means a seat ordinarily and customarily used by one (1) passenger and in determining such seating capacity the manufacturer's rating may be considered.

Section 3. KRS 281.013 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1)(a) A "city bus certificate" means a certificate granting authority only for the operation of motor vehicles transporting passengers for hire between points within the corporate limits of a city and over regular routes;

(b) A "city bus" is a motor vehicle operated under one or more city bus certificates;

(c) The term "city bus license" means a license plate issued for a bus authorizing its operation under one or more city bus certificates or a combination of city bus certificates and suburban bus certificates;

(2)(a) A "suburban bus certificate" means a certificate granting authority only for the operation of motor vehicles carrying passengers for hire within the confines of either one or more cities and their suburban area, or a suburban area, over regular routes but not granting authority to engage in intracity transportation;

(b) A "suburban bus" is a motor vehicle operated under one or more suburban bus certificates;

(c) The term "suburban bus license" means a license plate issued for a bus authorizing its operation under one or more suburban bus certificates;

(3)(a) An "industrial bus certificate" means a certificate granting authority only for the operation of motor vehicles *which are not exempt under subsection (10) of Section 4 of this Act and which are used* exclusively *for* transporting employes of a given industry or industries for hire to and from their place of employment;

(b) An "industrial bus" is a motor vehicle operated under an industrial bus certificate;

(c) The term "industrial bus license" means a license plate issued for a bus authorizing its operation under an industrial bus certificate.

Section 4. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy or mill, or from one market, warehouse, dairy or mill to another market, warehouse, dairy or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection; or

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(5) Motor vehicles owned in whole or in part by any person and used by such person to transport petroleum products and those incidental supplies used or sold in connection with the wholesale or retail sale or such petroleum products of which petroleum products or incidental supplies, such person is the owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person in the furtherance of any commercial enterprise other than the business of transportation of property for hire;

(6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(8) Motor vehicles used as ambulances in transporting wounded, injured, or sick persons or animals.

(9) Motor vehicles used by transit authorities as created and defined in KRS chapter 96A except as required by KRS 96A.170.

(10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis.

SECTION 5. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) The term "nonprofit bus certificate" means a certificate authorizing a private, nonprofit corporation or a community action corporation, not otherwise exempt from the provisions of this chapter, to operate motor bus or van equipment to transport passengers for hire, on other than a casual or occasional basis, between certain points within a given county or counties over regular or irregular routes, or a combination of such

routes. A nonprofit bus system shall be deemed "for hire" if there is charged, contributed or received any compensation or grant of funds from the passengers themselves, individually or as a group, or from any outside source paying for or subsidizing, in whole or in part, the operating expenses attributable to the transportation services being provided, but a holder of a nonprofit bus certificate shall be deemed to be exempt from rates and services regulation by the bureau, as provided for by KRS 281.675 through 281.705, unless otherwise provided therein.

(2) If any intracity passenger service is proposed by an applicant for a nonprofit bus certificate, a letter or resolution of support from the affected city shall be filed with the application.

(3) Any nonprofit bus certificate issued by the bureau shall describe the passenger service or services authorized to be performed, including the types of passengers who may be transported if service is not to be held out to the general public, the points between which or the area within which such passengers may be transported, and whether regular or irregular route operations, or both, are authorized. If regular route operations are to be authorized, the certificate may merely set forth that such are permitted between certain points or within a certain area, leaving it to the certificate holder to develop its own specific route structures and schedules.

(4) Any private, nonprofit corporation or community action corporation engaged, as of the effective date of this Act, in the for-hire transportation of persons, as defined in subsection (1), pursuant to a valid certificate of public convenience and necessity or permit shall, upon application, be entitled to the issuance of a nonprofit bus certificate to thereafter authorize a continuation of the same operations. Any such corporation then having an application pending for a certificate of public convenience and necessity or permit shall be entitled to a conversion of such, consistent with principles of procedural due process, to one for a nonprofit bus certificate.

Section 6. KRS 281.625 is amended to read as follows:

(1) (a) Upon the filing of an application for a certificate or permit or for amendment or for sale, transfer or lease or for change in route or for abandonment of a certificate or permit, the bureau shall, within a reasonable time, fix the time and place for a hearing.

(b) Upon the filing of a petition for the removal of a commodity from the exempted list, the same shall be held in the bureau and accumulated with others filed, if any, and at the end of each quarter of the year, the bureau shall fix the time and place for a hearing on petitions filed in the preceding quarter.

(c) At least thirty (30) days before the hearing, the bureau shall mail written notice of the hearing, and the right to file a protest, in accordance with the regulations of the bureau, to the applicant and every authorized carrier, including railroads, serving any part of the route proposed to be served or abandoned by the applicant. The bureau may also give similar notice to any other person, who, in the opinion of the bureau, may be interested in or affected by the granting of the application.

(2) At the time fixed in the notice the bureau shall hold a public hearing on the application. Any person having interest in the subject matter may, in accordance with the regulations prescribed therefor, file a protest to the granting, in whole or in part, of the application.

(3) *If the application is for a nonprofit bus certificate and no protest is filed, the bureau may grant the certificate without a hearing, provided the provisions of subsection (3) of Section 7 of this Act are met.*

(4) The bureau, may, if the application is solely for rights previously granted by the interstate commerce commission, dispense with the holding of a hearing.

(5) [(4)] Persons engaged in the transportation in interstate commerce in Kentucky of any commodity exempted by the interstate commerce commission from regulation shall be subject to the same Kentucky requirements and regulations as if such persons were transporting commodities not exempted by the interstate commerce commission, except that in lieu of filing or registering with the bureau a certificate of public convenience and necessity as issued by the interstate commerce commission, such persons shall apply to the bureau for a permit or certificate restricted to interstate commerce and such a permit or certificate may be issued without a hearing.

(6) [(5)] If such applicant has been granted an irregular route common carrier certificate by the interstate commerce commission, the bureau may grant an irregular route common carrier certificate restricted to operation in interstate commerce, and on the granting of same, it shall notify the department of revenue of the applicant's operation.

(7) [(6)] The bureau shall promulgate regulations designating as exempted commodities those commodities or property which are normally and usually not transported by common carriers by motor vehicle and may grant an irregular route common carrier certificate upon application, to transport only such exempted commodities without the holding of a hearing; and the bureau may also remove any commodity so designated at any time with a hearing.

(8) [(7)] The bureau may grant a permit, upon application, to operate a U-drive-it without the holding of a hearing.

Section 7. KRS 281.630 is amended to read as follows:

(1) A certificate *of public convenience and necessity* shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing and able properly to perform the service proposed and to conform to the provisions of this chapter and the requirements and the rules and regulations of the bureau thereunder, and further that the existing transportation service is inadequate, and that the proposed service, to the extent to be authorized by the certificate, is or will be required by the present or future public convenience and necessity, and that the proposed operation, to the extent authorized by the certificate, will be consistent with the public interest and the transportation policy declared in this chapter; otherwise such application shall be denied, provided, however, that nothing herein shall be construed so as to require the bureau to give, to any existing carrier authorized to render service to, from or between any point on the route proposed to be served by the applicant, any notice regarding the quality or quantity of its service to, from or between such points or to require the bureau to give to such existing carrier any opportunity to improve its existing service or to render the service found to be needed before the issuance of a certificate to the applicant.

(2) In granting a certificate, *of public convenience and necessity,* the order, among other things, shall specify the route or routes of service and territory to be served, provided that where the certificate to be granted specifies a route or routes or portion of a route or routes common to a certificate or certificates authorizing the same type of operation held by the applicant, all such certificates shall constitute but a single operating authority over that portion of the route or routes common to the certificates. The order granting a certificate shall not limit the number of vehicles to be operated by the motor carrier except that, in the granting of a certificate for the operation of taxicabs, the order shall specify the maximum number of taxicabs to be operated thereunder.

(3) *A nonprofit bus certificate shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears from the application and any hearing held thereon that the applicant is fit, willing and able properly to render the proposed service and to conform to the applicable provisions of this chapter and the rules and regulations of the bureau thereunder, that the proposed service, to the extent authorized by the certificate, will not unreasonably compete with or divert business from any authorized carrier of passengers then adequately serving the same area, and further that the proposed operation, to the extent authorized by the certificate, will serve the public interest; otherwise such application shall be denied. If no protest to the application is filed, it shall be taken to mean that no unreasonable competition or diversion will occur, and the commissioner may, if satisfied from the application that the applicant is a fit one and that the proposed operation will serve the public interest, issue a nonprofit bus certificate without a hearing.*

(4) A carrier shall be entitled to have issued to it by the department as many certificates, and of such types, as will cover its entire authorized operation.

(5) [(4)] A permit shall be granted to any qualified applicant therefor authorizing in whole or in part the operations covered by the application, if it appears from the application and the hearing held thereon that the applicant is fit, willing and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of this chapter and the lawful requirements, rules and regulations of the bureau thereunder, and that the proposed operation to the extent authorized by the permit will be consistent with the public interest and the transportation policy declared in this chapter, and that it will not unreasonably impair the efficient public service of any authorized common carrier than adequately serving the same territory, and if it further appears that the existing transportation service is inadequate, and that it appears that the proposed service is needed; otherwise such application shall be denied. The bureau shall specify in the permit the business of the contract carrier covered thereby and the scope thereof, and shall attach to it at the time of issuance, and from time to time thereafter, such reasonable terms, conditions and limitations consistent with the character of the holder as a contract carrier as are necessary to carry out, with respect to the operations of such carrier, the requirements established by the bureau.

(6) [(5)] Amendment or change of route or abandonment of a certificate or permit shall be granted upon the same basis that an original certificate or permit is granted.

(7) [(6)] Any certificate or permit, *or portion thereof,* may be sold, assigned, leased or transferred, after a hearing and notice to interested parties as provided for in KRS 281.625 *and subject to such terms and conditions and such modifications as the bureau shall find to be just and reasonable,* provided the transferee is fit, willing and able to render the proposed service *and the proposed transaction, subject to such terms, conditions and modifications as the bureau may impose, will not* [, unless it would] be against the public interest, and provided further that the commissioner may approve the sale and transfer of a certificate or permit, *or portion thereof,* without a hearing if, after due notice of the proposed sale or transfer is given to all interested parties in accordance with the rules and regulations of the bureau, no protest is filed to the proposed sale or transfer and the commissioner believes that it will be in the public interest.

(8) [(7)] For the purpose of this section, a transfer of the controlling stock of a corporation owning a certificate or permit may be considered a transfer of said certificate or permit.

(9) [(8)] Upon the consummation of a merger or consolidation of motor carriers as effected under the provisions of KRS Chapter 271A, the surviving or new corporation, as the case may be, shall own and possess all of the certificates, permits, authorizations, licenses, rights, privileges, franchises and properties owned or possessed by each of such motor carriers; and if such merger or consolidation is set aside, the certificates, permits, authorizations, licenses, rights, privileges, franchises and properties acquired by the surviving or new corporation through the merger or consolidation shall become revested in the corporation from which acquired, unless disposed of, subject to such indebtedness and liens as may be equitable, and all other properties of the surviving or new corporation shall become vested in the constituent corporation in such manner as may be fair and equitable.

(10) [(9)](a) Notwithstanding the provisions of subsection *(4)* [(3)] of this section, where a motor carrier has been granted two (2) or more certificates or permits authorizing the same type of operation over a route or routes or a portion of a route or routes common to two (2) or more of the certificates or permits, the carrier shall be deemed to possess only one operating authority over that portion of the routes common to the certificates or permits.

(b) The bureau is authorized to recall any certificates and to reissue one or more certificates covering the exact authority.

Section 8. KRS 281.632 is amended to read as follows:

(1) To enable the provision of service for which there is an immediate and urgent need to or from a point or points or within a territory having no carrier service capable of meeting such need, the bureau, may, in its discretion and without hearings or other proceedings, grant temporary authority for such service by a common carrier or contract carrier by motor vehicle *or by an applicant for a nonprofit bus certificate*, as the case may be. Such temporary authority, unless suspended or revoked for good cause, shall be valid for such time as the bureau shall specify but for not more than an aggregate of one hundred eighty (180) days, and shall create no presumption that corresponding permanent authority will be granted thereafter.

(2) Pending the determination of an application filed with the bureau for approval of a consolidation or merger of the properties of two (2) or more motor carriers, or of a purchase, lease, or contract to operate the properties of one or more motor carriers, the bureau may, in its discretion, and without hearings or other proceedings, grant temporary approval, for a period not exceeding one hundred eighty (180) days, of the operation of the motor carrier properties sought to be acquired by the persons proposing in such pending application to acquire such properties, if it shall appear that failure to grant such temporary approval may result in destruction of or injury to such motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

Section 9. KRS 281.675 is amended to read as follows:

(1) Every rate, fare and charge demanded or received by any *certificate holder* [common carrier or irregular route common carrier] shall be just and reasonable, and every *holder of a certificate* [such carrier] shall furnish adequate, efficient, safe and reasonable service.

(2) Every contract made by a contract carrier for transportation service shall be just and reasonable, and shall be comparable to the rate charged by any common carrier for the same or similar service, and such contract carrier shall furnish adequate, efficient, safe and reasonable service.

Section 10. KRS 281.635 is amended to read as follows:

Notwithstanding anything contained in this chapter:

(1) All cities of the commonwealth are vested with the power to sell franchises or, where no franchise is sold, grant authorizations for the operation of city buses over their streets and highways; Provided, however, no person shall apply for or obtain any such franchise or authorization from any city without a prior finding by the bureau of vehicle regulation, after a hearing, that there is a demand and necessity for the service sought to be rendered, which finding shall be valid and effective for a period of one (1) year from and after the date thereof, exclusive of any delay due to the order of any court. Upon certification by the bureau to such city that there is a demand and necessity for the service sought to be rendered, any city may award any duly qualified person a franchise or authorization covering the proposed operation. Upon acquiring such a franchise or authorization, the holder thereof shall apply to the bureau of vehicle regulation for a city bus certificate which shall be issued to the holder of the franchise or authorization without a hearing. The governing body of any city of the first *five (5)* [three] classes which does not have a city bus service, may determine that there is a demand and necessity for a city bus service, and may thereafter apply to the bureau of vehicle regulation for a city bus certificate to be operated by said city which may be issued without a hearing, provided that the bureau determines that it will be in the public interest. Unless a certificate is exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court, the authority conferred by the issuance of the certificate of convenience and necessity shall be void.

(2) The applicant for a certificate or renewal of a certificate to operate a city bus shall at the time of application file with the bureau a map or maps showing the route or routes and territory proposed to be served, together with a time schedule, and shall thereafter, during the license year, file only such additional maps or time schedules as the commissioner may require.

(3) The governing body of any city of the first four (4) classes in the commonwealth in which city buses operate shall have supervisory and regulatory power over such city buses, while operating in such city, and shall have authority to enforce all ordinances or regulations pertaining to routes, services, time schedules and operation of said city buses and the drivers thereof, provided that any interested party may appeal to the bureau from any action, finding or order of any such city within thirty (30) days after the entry of such action, finding or order, and a hearing shall be held before the bureau in the same manner as other hearings are held as provided for in this chapter; Provided, however, That any such action, finding or order of any such city shall be sustained if there is substantial evidence or reason to support it; otherwise the bureau shall make such orders as it deems necessary and proper. However, where a carrier's entire operation is confined to intracity transportation within the corporate limits of a single city, there shall be no appeal to the bureau from the actions, findings or orders of such a city. Provided further, That where any city bus is subject to the regulatory powers of more than one (1) city and such regulations are in conflict or such as to impede the transportation facilities serving such cities, or the carrier is failing to furnish safe, adequate and convenient service to the public, the bureau may, upon complaint or on its own initiative, call a hearing and enter such orders as are necessary and proper.

(4) The governing body of any city of the first five (5) classes in the commonwealth in which taxicabs operate shall have supervisory and regulatory power over taxicabs certificated to operate in said city, and while operating in said city, and shall have authority to enforce all ordinances or regulations pertaining to the number and operation of taxicabs, provided that any interested party may appeal to the bureau from any action, finding or order of any city within thirty (30) days after the entry of such action, finding or order, and a hearing shall be held before the bureau in the same manner as other hearings are held as provided for in this chapter; Provided, however, That any such action, finding or order of any such city shall be sustained if there is substantial evidence or reason to support it; otherwise the bureau shall make such orders as it deems necessary and proper. However, where a carrier's entire operation is confined to intracity transportation within the corporate limits of a single city, there shall be no appeal to the bureau from the actions, findings or orders of such a city.

(5) The governing body of any city of the first five (5) classes in the commonwealth is hereby vested with the exclusive power to prescribe the qualifications with respect to the health, vision, sobriety, intelligence, ability, moral character and experience of the drivers of taxicabs certificated to operate in said city, and while operating in said city, and may issue permits for qualified drivers. However, any taxicab driver must also possess a Kentucky operator's license.

(6) Until such time as any city of the commonwealth enacts such ordinances or prescribes such rules and regulations as may be reasonably necessary to exercise the prior powers herein delegated to such cities respecting the supervision and regulation of city buses, taxicabs and taxicab drivers, the bureau shall possess such powers and may, by regulation, prescribe such rules as may be reasonably necessary to supervise and control city buses, taxicabs and taxicab drivers, having regard for the public safety and the public need for service.

(7) If any city fails to exercise any of the authority granted it herein, such authority shall be vested in the bureau.

(8) The bureau may, under the provisions of this chapter, originate, establish, change, promulgate and enforce any rate that has or may be fixed by any contract, franchise or agreement between the holder of any city bus certificate and any city, and all rights and obligations arising out of such contract regulating any such rate shall be subject to the jurisdiction and supervision of the bureau, but no such rate shall be changed nor any contract, franchise or agreement affecting it be abrogated or changed until a hearing has been had.

Section 11. KRS 281.700 is amended to read as follows:

(1) No common carrier shall abandon or change any route or service, except upon an application heretofore provided for; except, however, if it becomes necessary, on account of the condition of the highways or other emergency, a common carrier may make temporary changes in route, service or schedules by notifying the bureau of such change. However, any carrier operating under a suburban bus certificate may make such changes in routes and schedules as may be necessary for the public convenience and shall not be required to notify the bureau of such changes, unless such changed condition is to continue for a period longer than ten (10) days, in which event the carrier shall notify the bureau of the additional time that it desires such change or changes to remain in effect, and the reason therefor, and the bureau may grant such extension of time without a hearing.

(2) If after the granting of a certificate *of public convenience and necessity, a nonprofit bus certificate* or *a* permit, operation is not begun within sixty (60) days thereof, said certificate or permit will become null

and void, and cannot be reinstated; Provided, however, That the bureau may grant an additional time to begin such operation, provided application therefor is made within the sixty-day period.

(3) If, after *any* [a] motor carrier has operated in good faith, there is an abandonment of the whole or any part of said operation, the bureau may notify said motor carrier to immediately begin such operation, and if such motor carrier fails to do so within thirty (30) days thereof, the bureau may enter an order cancelling said certificate or permit, with or without a hearing, or it may enter an order requiring the motor carrier to operate such abandoned route.

Section 12. KRS 281.720 is amended to read as follows:

The bureau shall prescribe and furnish a distinguishing plate or plates, which shall at all times be displayed on each motor vehicle authorized to be operated under a certificate *of public convenience and necessity* or permit. Where a carrier is the holder of one or more city bus certificates, or the carrier holds both a city bus certificate or certificates and a suburban bus certificate or certificates, the bureau shall issue to it for each vehicle operated thereunder a city bus license plate which shall authorize the operation of said vehicle under either one or all the certificates so held. No person shall transfer such plates from one motor vehicle to another except by the authority and with the consent of the bureau.

Section 13. KRS 186.281 is amended to read as follows:

(1) On or before January 1 of each year, and as a condition precedent to the use of the highways, every motor carrier primarily engaged in transporting passengers for hire shall pay to the department of motor transportation for the privilege of using the highways an annual tax upon each motor vehicle so used, as follows: Four dollars and fifty cents ($4.50) for each regular seat for the first thirty-one (31) seats, and eight dollars ($8.00) for all seats in excess of thirty-one (31); except as provided in subsection (2) of this section, *except that holders of nonprofit bus certificates shall be exempt from payment hereunder* and except that taxicabs, city buses, industrial buses, suburban buses, and U-Drive-Its, shall pay the fees set forth in subsection (4) of this section.

(2)(a) Any such motor carrier engaged in regular route interstate commerce or combined interstate and intrastate commerce and operating two (2) or more vehicles in Kentucky shall be required to pay only that portion of a tax imposed by subsection (1) as the number of miles operated by such fleet of motor vehicles in Kentucky bears to the total miles operated by such fleet in any license year, or portion thereof.

(b) Any such motor carrier shall prior to January 1 of each license year, and as a prerequisite to operating on the highways of this state, obtain a permit from the department of motor transportation and at that time shall pay its estimated tax hereunder, as determined by the department of motor transportation's applicable regulations, and execute bond for any additional tax which might be due, with or without surety thereon, as the department of motor transportation in its discretion and according to its regulations might require.

(c) The department of motor transportation is authorized and directed to promulgate such rules and regulations as may be necessary to effectuate the apportionment of taxes prescribed in subsection (2). Such regulations shall provide that the estimate of such taxes for any license year shall be that proportion that would have been due in the prior license year and shall further provide for a license year-end accounting with a system of credit or deficiency assessment in any amount by which the estimate differs from the tax due hereunder.

(3) Every motor carrier primarily engaged in transporting passengers for hire shall pay to the department of motor transportation for the privilege of using the highways, including deadhead mileage, a mileage tax as follows: Buses with one (1) to twenty (20) regular seats inclusive, none; buses with twenty-one (21) to twenty-nine (29) regular seats, inclusive, one-fourth (1/4) of a cent per mile; buses with thirty (30) to thirty-four (34) regular seats, inclusive, one-half (1/2) of a cent per mile; buses with thirty-five (35) to thirty-nine (39) regular seats, inclusive, three-fourths (3/4) of a cent per mile; buses with forty (40) regular seats or more, one cent per mile, *except that holders of nonprofit bus certificates shall be exempt from payment hereunder and* except that taxicabs, city buses, industrial buses, suburban buses and U-Drive-Its shall pay the fees set forth in subsection (4) of this section, in addition to all fees set forth in KRS 186.050 (1) if applicable.

(4) Taxicabs, city, suburban and industrial buses, and U-Drive-Its, shall pay the following annual license fees:

Each taxicab	$3.00 per seat
Each city bus	5.00 per vehicle
Each industrial bus	2.50 per seat
Each suburban bus	5.00 per vehicle
Each U-Drive-It passenger car	2.50 per seat

(5) All cities of the commonwealth are hereby authorized to impose an annual license tax on all taxicabs certificated by the department of motor transportation for operation in said city, which license tax shall not exceed thirty dollars ($30.00) per taxicab.

The Committee on Business Organizations and Professions reported **HB 86** with Committee Substitute and Committee Title Amendment attached thereto, **HB 318** with Committee Amendments attached thereto, and **SB 76** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 86, AN ACT relating to the licensure of athletic therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 327A IS ESTABLISHED AND A NEW SECTION IS CREATED TO READ AS FOLLOWS:

(1) "Athletic therapist" means a person with specific qualifications, as set forth in Section 9 of this Act, who, upon the advice and consent of his team physician, carries out the practice of prevention or physical rehabilitation, or both, of injuries incurred by varsity athletes at his school or institution, and in carrying out these functions the athletic therapist is authorized to use physical modalities, such as heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment.

(2) "Board" means the Kentucky board of athletic therapists.

(3) "Athletic trainer" means the same as "athletic therapist" as defined by this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky board of athletic therapists, composed of three (3) members, is hereby created. To qualify as a member, a person must be a citizen of the United States and a resident of Kentucky for five (5) years immediately preceding appointment. Two (2) members must be athletic therapists and one (1) member must be a physician licensed by the state, and a member of the Kentucky medical association's committee on school health, physical education and medical aspects of sports.

(2) Except for the initial appointees, members shall serve for a term of office of six (6) years. All terms shall expire on January 31 of even-numbered years. In making the initial appointments, the governor shall appoint one (1) member for a term expiring in 1982, one (1) member in 1984, and one (1) member for a term expiring in 1986.

(3) Each appointee to the board shall qualify by taking an oath of office within fifteen (15) days from the date of his appointment. On presentation of the oath, the secretary of state shall issue commissions to appointees as evidence of their authority to act as members of the board.

(4) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chairman, vice-chairman, and a secretary-treasurer from its members for a term of one (1) year, and may appoint such committees as it considers necessary to carry out its duties.

(2) The board shall meet at least once each year. Additional meetings may be held on the call of the chairman or at the written request of any two (2) members of the board.

(3) The quorum required for any meeting of the board shall be two (2) members. No action by the board or its members shall have any effect unless a quorum of the board is present at the meeting at which such action is taken.

SECTION 4. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) The board shall keep a record of its proceedings in a book maintained for that purpose.

(2) The board shall keep a complete record of all licensed athletic therapists. A copy of the roster shall be made available to any person requesting it on payment of a fee established by the board as sufficient to cover the costs of the roster.

SECTION 5. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) The board is hereby authorized to promulgate and adopt rules and regulations consistent with this Act which are necessary for the performance of its duties.

(2) The board shall prescribe application forms for license applications.

(3) The board shall establish guidelines for athletic therapists in the state and prepare and conduct an examination for applicants for a license.

(4) The board may employ an executive secretary and other persons necessary to carry out the provisions of this Act. The executive secretary shall have such duties and responsibilities as the board may determine.

(5) The board shall adopt an official seal and the form of a license certificate of suitable design.

(6) The board shall authorize all necessary disbursements to carry out the provisions of this Act, including stationary expenses, equipment, and facilities necessary to carry out the provisions of this Act.

(7) The board may issue subpoenas to compel witnesses to testify or produce evidence in any proceeding to deny, revoke, or suspend a license.

SECTION 6. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

Members of the board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties under this Act. Notwithstanding any other provision of this Act or other law, each member shall receive the per diem allowed for state employes for room and board which shall be paid only for days on which a member is in attendance at a meeting of the body. Such members shall be reimbursed for actual transportation costs incurred in attendance at a meeting of the body in the amount of the least expensive tariff when traveled by public carrier or an amount based on the mileage rate that is established by law for members of the general assembly when traveled by private vehicle. Any reimbursement for expenses which is received from any other source, either private or public, shall be in lieu of the expenses authorized by this section. Provided, however, if a meeting is held within fifty (50) miles of the member's residence or if the member does not incur a cost of public lodging for the meeting, the per diem authorized by this section shall be determined by the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

The board shall collect the following fees which can be raised at its discretion:

(1) An athletic therapist examination fee of twenty-five dollars ($25) for each examination taken.

(2) An initial athletic therapist license fee of twenty-five dollars ($25) and,

(3) An athletic therapist biannual license renewal fee of forty dollars ($40).

SECTION 8. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

No person shall hold himself out as an athletic therapist or perform, for compensation, any of the activities of an athletic therapist as defined in this Act without first obtaining a license under this Act; provided, however, that nothing in this Act shall be construed to prevent any person from serving as a student-trainer, assistant trainer, teacher-trainer or any similar position if such service is not primarily for compensation and is carried out under the supervision of a coach, physician, or a licensed athletic therapist.

SECTION 9. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for an athletic therapist license must possess one of the following qualifications:

(a) Have met the national athletic trainers' association curriculum requirements of a college or university approved by the board and give proof of graduation; or

(b) Hold a degree in physical therapy or corrective therapy with at least a minor in physical education or health which included a basic athletic training course and have spent at least two (2) academic years working under the direct supervision of an approved athletic therapist; or

(c) Have completed at least four (4) years beyond the secondary school level, while either as an undergraduate or graduate student, as an apprentice athletic trainer under the direct supervision of a licensed athletic therapist or an athletic trainer certified by the national athletics trainers' association. Said four (4) years must be consecutive years of supervision, military duty excepted.

(2) An out-of-state applicant must fulfill one of the above stated qualifications, (1)(a), (b), or (c). The Commonwealth of Kentucky shall grant, without examination, a license to any qualified nonresident athletic therapist holding a license in another state if such other state recognizes licenses of the Commonwealth of Kentucky in the same manner. An out-of-state applicant from a state not having a licensure act will be eligible to take the Kentucky licensing examination if certified by the national athletic trainers' association and approved by the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) An applicant for an athletic therapist license must submit an application to the board on forms prescribed by the board and submit the examination fee required by this Act.

(2) The applicant is entitled to an athletic therapist's license if he possesses the qualifications enumerated in Section 9 of this Act, satisfactorily completes the examination administered by the board, pays the license fee as set in Section 7 of this Act, and has not committed an act which constitutes grounds for denial of a license under Section 12 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

A license issued pursuant to this Act shall expire two (2) years from the date of issuance. Licenses shall be renewed according to procedures established by the board and payment of the renewal fee as set in Section 7 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

The board may refuse to issue a license to an applicant or may suspend or revoke the license of any licensee if he has:

(1) Been convicted of a felony or misdemeanor involving moral turpitude, the record of conviction being conclusive evidence of conviction; or

(2) Secured the license by fraud or deceit; or

(3) Violated or conspired to violate the provisions of this Act or rules and regulations issued pursuant to this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) Any person whose application for a license is denied is entitled to a hearing before the board if he submits a written request to the board.

(2) Proceedings for revocation or suspension of a license shall be commenced by filing charges with the board in writing and under oath. The charges may be made by any person.

(3) The board shall fix a time and place for a hearing and shall cause a written copy of the charges or reason for denial of a license, together with a notice of the time and place fixed for hearing, to be served on the applicant requesting the hearing or licensee against whom the charges have been filed at least twenty (20) days prior to the date set for the hearing. Service of charges and notice of hearing may be given by certified mail to the last known address of the licensee or applicant.

(4) At the hearing, the applicant or licensee has the right to appear either personally or by counsel, or both, to produce witnesses, and to have subpoenas issued by the board and to cross-examine the opposing or adverse witnesses.

(5) The board is not bound by strict rules of procedure or by the laws of evidence in the conduct of the proceedings, but the determination shall be founded upon sufficient legal evidence to sustain it.

(6) The board shall determine the charges on their merits and enter an order in a permanent record setting forth the findings of fact and law and the action taken. A copy of the order of the board shall be mailed to the applicant or licensee at his last known address by certified mail.

(7) On application, the board may reissue a license to a person whose license has been cancelled or revoked, but the application may not be made prior to the expiration of a period of six (6) months after the order of cancellation or revocation has become final, and application shall be made in the manner and form as the board may require.

SECTION 14. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for a license has been refused or whose license has been cancelled, revoked, or suspended by the board may take an appeal, within thirty (30) days after the order is entered to the district court in the judicial district in which he resides.

(2) A case reviewed under the provisions of this section shall proceed in the district court by trial de novo. Appeal from the judgment of the district court lies as in other civil cases.

SECTION 15. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

SECTION 16. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) Any person actively engaged as an athletic therapist on the effective date of this Act shall be issued a license if he submits proof of two (2) years of experience as an athletic therapist within the preceding five (5) year period, is certified by the national athletic trainers' association, and pays the license fee required by this Act.

(2) For the purposes of this section a person is actively engaged as an athletic therapist if he is employed on a salary basis by an educational institution, professional athletic organization, or other bona fide athletic organization for the duration of the institution's school year, or the length of the athletic organization's season, and performs the duties of athletic therapist as a major responsibility of his employment.

(3) After a period of three (3) years from the effective date of this Act, application for a license under this section will not be permitted.

SECTION 17. A NEW SECTION OF KRS CHAPTER 327A IS CREATED TO READ AS FOLLOWS:

(1) Nothing herein shall be construed to authorize the practice of medicine by any person not licensed by the state board of medical licensure.

(2) The provisions of this Act do not apply to:
(a) Physicians licensed by the state board of medical licensure;
(b) Dentists, duly qualified and registered under the laws of this state who confine their practice strictly to denistry;
(c) Licensed optometrists who confine their practice strictly to optometry;
(d) Occupational therapists;
(e) Nurses who practice nursing only;
(f) Licensed podiatrists, who confine their practice strictly to podiatry;
(g) Physical therapists who confine their practice to physical therapy.

No provision of this Act shall be construed so as to limit or prevent any person duly licensed under the laws of this state from practicing the profession for which he was licensed.

Section 18. Section 8 of this Act shall become effective on July 1, 1979.

The Committee Substitute to **HB 86** is as follows:

HB 86, AN ACT relating to the licensure of athletic therapists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) "Athletic trainer" means a person with specific qualifications, as set forth in Section 9 of this Act, who, upon the advice and consent of his team physician, carries out the practice of prevention or physical rehabilitation, or both, of injuries incurred by participating athletes at his educational institution, professional athletic organization, or other bona fide athletic organization. In carrying out these functions the athletic trainer is authorized to use physical modalities, such as heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment.

(2) "Council" means the Kentucky advisory council on athletic trainers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky advisory council on athletic trainers, comprised of five (5) members, to be appointed by the governor. To qualify as a member, a person must be a citizen of the United States and a resident of Kentucky for five (5) years immediately preceding appointment. Two (2) members shall be athletic trainers, and two (2) members shall be physicians licensed by the state and members of the Kentucky medical association's committee on school health, physical education and medical aspects of sports and one (1) member shall be a citizen member.

(2) Except for the initial appointees, members shall serve for a term of office of six (6) years. All terms shall expire on January 31 of even-numbered years. In making the initial appointments, one (1) member shall be appointed for a one (1) year term, one (1) member for a two (2) year term, one (1) member for three (3) year term and two (2) members for a four (4) year term.

(3) A board member may be removed by the governor for good cause or if he or she misses two (2) consecutive council meetings and the other council members feel it is in the best interest of the council.

(4) In the event of death, resignation, or removal of any member, the vacancy of the unexpired term shall be filled by the governor in the same manner as other appointments.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The council shall elect a chairman, vice-chairman, and a secretary-treasurer from its members for a term of one (1) year, and may appoint such committees as it considers necessary to carry out its duties.

(2) The council shall meet at least once each year. Additional meetings may be held on the call of the chairman or at the written request of any three (3) members of the council.

(3) The quorum required for any meeting of the board shall be three (3) members. No action by the board or its members shall have any effect unless a quorum of the board is present at the meeting at which such action is taken.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board shall keep a record of proceedings of the council in a book maintained for that purpose.

(2) The board shall keep a complete record of all certified athletic trainers. A copy of the roster shall be made available to any person requesting it on payment of a fee established by the board as sufficient to cover the costs of the roster.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board of medical licensure is hereby authorized to certify athletic trainers consistent with the provisions of this Act and to adopt rules and regulations necessary for the performance of its duties.

(2) The board shall prescribe application forms for certification.

(3) The board shall establish guidelines for athletic trainers in the state and conduct a certification examination based on recommendations of the council.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Members of the council shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties under this Act, consistent with state policy governing the reimbursement of state employes for travel, food and lodging. Any reimbursement for expenses which is received from any other source, either private or public, shall be in lieu of the expenses authorized by this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board shall collect the following fees which can be raised at its discretion:

(1) An athletic trainer examination fee of twenty-five dollars ($25) for each examination taken.

(2) An initial athletic trainer certification fee of twenty-five dollars ($25).

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No person shall hold himself out as an athletic trainer or perform, for compensation, any of the activities of an athletic trainer as defined in this Act without first obtaining a certificate under this Act; provided, however, that nothing in this Act shall be construed to prevent any person from serving as a student-trainer, assistant trainer, teacher-trainer or any similar position if such service is not primarily for compensation and is carried out under the supervision of a physician.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for an athletic trainer certificate must possess one of the following qualifications:

(a) Have met the athletic training curriculum requirements of a college or university approved by the board and give proof of graduation; or

(b) Hold a certificate or a degree in physical therapy and have completed: (1) a basic athletic training course; (2) a first aid and a cardio-pulmonary resuscitation course; (3) a nutrition course; and (4) have spent a number of hours working under the direct supervision of an approved athletic trainer, according to the number of years experience as a licensed physical therapist. Less than one (1) year experience requires one thousand two hundred (1,200) hours; one (1) to two (2) years experience requires seven hundred (700) hours, and three (3) or more years experience requires four hundred (400) hours; or

(c) Have completed at least four (4) years beyond the secondary school level, while either as an undergraduate or graduate student, as an apprentice athletic trainer at a college or university under the direct supervision of an athletic trainer approved by the board. Said four (4) years must be consecutive years of supervision, military duty excepted. An applicant for certification under this provision must show proof of graduation from an accredited college or university and successful completion of courses in athletic training, first aid, cardio-pulmonary resuscitation, nutrition, anatomy, physiology and kenesiology.

(2) An out-of-state applicant must fulfill one of the above stated qualifications, (1)(a), (b), or (c). The Commonwealth of Kentucky may grant, without examination, a certificate to any qualified nonresident athletic trainer holding a license or certificate in another state if such other state recognizes certificates of the Commonwealth of Kentucky in the same manner. An out-of-state applicant from a state not having a licensure or certification act will be eligible to take the Kentucky certification examination if certified by the national athletic trainers' association and approved by the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for an athletic trainer certificate must submit an application to the board on forms prescribed by the board and submit the examination fee required by this Act.

(2) The applicant is entitled to an athletic trainer's certificate if he possesses the qualifications enumerated in Section 9 of this Act, completes the examination administered by the board, to their satisfaction, pays the certification fee as set in Section 7 of this Act, and has not committed an act which constitutes grounds for denial of a certificate under Section 11 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board may refuse to issue a certificate to an applicant or may suspend or revoke the certificate of any person if he has:

(1) Violated standards of practice as determined by the board; or

(2) Secured the certificate by fraud or deceit; or

(3) Violated or conspired to violate the provisions of this Act or rules and regulations issued pursuant to this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person whose application for a certificate is denied is entitled to a hearing before the board if he submits a written request to the board.

(2) Proceedings for denial, revocation or suspension of a certificate shall be conducted consistent with KRS 311.595(2) et seq.

(3) On application, the board may reissue a certificate to a person whose certificate has been cancelled or revoked, but the application may not be made prior to the expiration of a period of six (6) months after the order of cancellation or revocation has become final, and application shall be made in the manner and form as the board may require.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person whose application for a certificate has been refused or whose certificate has been cancelled, revoked, or suspended by the board may take an appeal, within thirty (30) days after the order is entered to the district court in the judicial district in which he resides.

(2) A case reviewed under the provisions of this section shall proceed in the district court by trial de novo. Appeal from the judgment of the district court lies as in other civil cases.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 8 of this Act shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person actively engaged as an athletic trainer on the effective date of this Act shall be issued a certificate if he submits proof of two (2) years of experience as an athletic trainer within the preceding five (5) year period, is approved by the board, and pays the certificate fee required by this Act.

(2) For the purposes of this section a person is actively engaged as an athletic trainer if he is employed on a salary basis by an educational institution, professional athletic organization, or other bona fide athletic organization for the duration of the institution's school year, or the length of the athletic organization's season, and performs the duties of athletic trainer as a major responsibility of his employment.

(3) After a period of one (1) year from the effective date of this Act, application for a certificate under this section will not be permitted.

SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

No provision of this Act shall be construed so as to limit or prevent any person duly licensed or certified under the laws of this state from practicing the profession for which he was licensed or certified.

Section 17. Section 8 of this Act shall become effective on July 1, 1979.

The Committee Title Amendment to **HB 86** is as follows:

Amend printed copy of **HB 86,** title amendment, the title of **HB 86** is amended to read as follows:

"AN ACT relating to the certification of athletic trainers."

HB 318, AN ACT relating to the practice of nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and 314.991, unless the context thereof requires otherwise:

(1) "Board" shall mean Kentucky board of nursing [education and nurse registration].

(2) "Nurse" shall mean a person licensed under the provisions of KRS 314.011 to 314.161 and 314.991 as a registered nurse or as a licensed practical nurse.

(3) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation and evaluation based on nationally accepted standards of nursing practice.

(4) "Registered nurse" shall mean one who *is licensed under the provisions of KRS Chapter 314 to engage in registered nursing practice* [performs for compensation as a nurse any act in the observation, care and counsel of the ill, injured, or infirm, or in the maintenance of health or prevention of illness of others, or in the supervision and teaching of other personnel, or the administration of medications or treatments as prescribed by a licensed physician or licensed dentist; requiring substantial judgment and skill and based on knowledge and applications of the principles of biological, physical and social science, but shall not be deemed to include acts of medical diagnosis or prescription of therapeutic or corrective measures].

(5) "Registered nursing practice" shall mean the performance of acts requiring substantial specialized knowledge, judgment and nursing skill based upon the principles of psychological, biological, physical and social sciences in the application of the nursing process in:

(a) The care, counsel and health teaching of the ill, injured or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed or authorized by a physician or dentist licensed in this state and as further authorized or limited by the board, and which are consistent either with American Nurses' Association standards of practice or with standards of practice established by nationally accepted organizations of registered nurses.

(d) The supervision and teaching of other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association standards of practice or with standards of practice established by nationally accepted organizations of registered nurses.

(6) "Advanced registered nurse practitioner" shall mean one who is certified to engage in advanced registered nursing practice including but not limited to the nurse anethetist, nurse midwife and nurse practitioner.

(7) "Advanced registered nursing practice" shall mean the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized post-basic program of study and clinical experience approved by the organization or agency which has the authority to certify the advanced registered nurse practitioner.

(8) "Licensed practical nurse" shall mean one who is licensed under the provisions of KRS Chapter 314 to engage in licensed practical nursing practice.

(9) "Licensed practical nursing practice" shall mean the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured or infirm under the direction of a registered nurse, a licensed physician or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician or dentist licensed in this state and as further authorized or limited by the board which are consistent with the national federation of licensed practical nurses or with standards of practice established by nationally accepted organizations of licensed practical nurses.

(d) Teaching or supervising except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses.

[(4) "Practical nurse" shall mean one who performs for compensation delegated acts in the care of the ill, injured or infirm under the direction of a registered nurse or a licensed physician or licensed dentist; and not requiring the substantial specialized judgment and knowledge required of the registered nurse.]

(10) [(5)] "School of nursing" shall mean [an institution conducting or offering to conduct] a nursing education program *preparing persons* for [the preparation or training for] licensure [of a person] as a registered nurse or a practical nurse.

(11) "Continuing education" shall mean participation in approved offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(12) "Nursing assistance" shall mean the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

Section 2. KRS 314.021 is amended to read as follows:

(1) It is the declared policy of the general assembly of Kentucky that the practice of nursing should be regulated and controlled as provided herein *and by regulations of the board* in order to protect and safeguard the health and safety of the citizens of the commonwealth of Kentucky.

(2) All individuals licensed under provisions of this chapter shall be responsible and accountable for making decisions that are based upon the individuals' educational preparation and experience in nursing.

Section 3. KRS 314.031 is amended to read as follows:

(1) It shall be unlawful for any person to call or hold himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed under the provisions of KRS 314.011 to 314.161 and 314.991.

(2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of nursing unless such school of nursing has been *approved* [accredited] under the provisions of KRS 314.011 to 314.161 and 314.991.

[(3) Ancillary nursing personnel and student nurses may give nursing assistance, unrelated to their educational training, for compensation as long as they are not identified as licensed either as a registered nurse or as a practical nurse.]

Section 4. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath, that the applicant [is of good moral character;] is in good physical and mental health; has completed at least an approved four-year high school course of study or the equivalent thereof [as determined by an appropriate educational agency]; and has completed the basic [professional] curriculum in an approved school of [professional] nursing and holds a diploma therefrom.

(2) An applicant shall be required to pass a written examination in such subjects as the board may prescribe. Each written examination may be supplemented by an oral or practical examination. *Application for licensure by examination must be received by the board at least thirty (30) days prior to the date of the examination as determined by the board.* Upon successfully passing such examination, the board shall issue to the applicant a license to practice nursing as a registered nurse.

(3) *The board shall meet for the purpose of conducting examinations of applicants for licensure as registered nurses at least once a year, at a time and place determined by the board. Notices of such examinstions shall be published in two (2) newspapers with statewide circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least sixty (60) days prior to the examination.*

(4) The board may issue a license to practice nursing as a registered nurse [without examination,] to an applicant who has *passed the state board test pool exam or an equivalent examination approved by the board and* been [duly] licensed as a registered nurse under the laws of another state, territory or foreign country, if in the opinion of the board the applicant is qualified to practice professional nursing in this state.

[(4) The board, at its discretion, may issue a temporary license to nurses who are licensed in and citizens of other countries; Provided such license shall be issued for a period not to exceed one (1) year.]

(5) The applicant for licensure to practice as a registered nurse shall pay a fee *to be set by the board* of not more than *fifty dollars ($50)* [$25.00].

(6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section [or excepted under the provisions of KRS 314.011 to 314.161 and 314.991].

(7) *Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted such inactive status by the board in accordance with regulations promulgated by the board. Such inactive status shall require a yearly renewal and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and must complete the requirements as established in KRS Chapter 314 and by regulation of the board.* [Any person holding, on July 1, 1966, a valid license or certificate of registration to practice nursing as a registered nurse under the prior law shall thereafter be deemed to be licensed as a registered nurse under the provisions of KRS 314.011 to 314.161 and 314.991, subject to the renewal requirements of KRS 314.011 to 314.161 and 314.991.]

(8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed such license to lapse by failure to renew may apply for reinstatement of such license under the provisions of KRS 314.011 to 314.161 and 314.991.

Section 5. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall *file with* [submit to] the board a written *application for a license verified by oath, that the applicant is in good physical and mental health and has completed at least an approved four (4) year* [evidence that the applicant is at least eighteen (18) years of age, is of good moral character, has completed at least three (3) years, if twenty-five (25) years of age or less, or at least two (2) years, if more than twenty-five (25) years of age, of] high school *course of study* or its equivalent [as determined by an appropriate educational agency], and has completed the required educational program in practical nursing at an *approved* [accredited] school of nursing and holds a diploma or certificate therefrom.

(2) The board shall meet for the purpose of conducting examinations of applicants for licensure as licensed practical nurses at least once a year, at a time and place determined by the board. Notices of such examinations shall be published in two (2) newspapers *with statewide* [in general] circulation. Notices shall be sent by mail to every applicant after applications are received, and to every approved school of practical nursing in this state at least *sixty (60)* [thirty (30)] days *prior to the examination* [before the meeting].

(3) The applicant applying for a license to practice as a licensed practical nurse shall pay a fee of not more than *fifty dollars ($50)* [$25.00] to the board.

(4) *An* [The] applicant shall be required to pass a written examination in such subjects as the board may determine. Each written examination may be supplemented by an oral or practical examination. *Application for licensure by examination must be received by the board at least thirty (30) days prior to the date of the examination as determined by the board.* Upon successfully passing such examination the board shall issue to the applicant a license to practice as a licensed practical nurse.

(5) The board may issue a license to practice as a licensed practical nurse [without examination] to any applicant who has *passed the state board test pool exam or an equivalent examination approved by the board and has* been [duly] licensed or registered as a licensed practical nurse or a person *licensed* [entitled] to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. *No person shall practice as a licensed practical nurse unless licensed under this Act.*

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted such inactive status by the board in accordance with regulations promulgated by the board. Such inactive status shall require a yearly renewal and those persons granted inactive status shall not be governed by the continuing education provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and must complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(8) [(7)] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed such license to lapse by failure to renew may apply for reinstatement of such license under the provisions of KRS 314.011 to 314.161 and 314.991.

Section 6. KRS 314.071 is amended to read as follows:

(1) The license of every person under the provisions of KRS 314.011 to 314.161 and 314.991 shall be annually renewed except as hereinafter provided. At least six (6) weeks before the renewal date the board shall mail an application for renewal to every person to whom a license was issued during the current year. The applicant shall fill in the application form and return it to the board with the renewal fee prescribed by the board but not in excess of *twenty dollars ($20)* [$10.00] before the expiration date of his current license. Upon receipt of the application and fee the board shall verify the accuracy of the application and issue to the applicant a license to practice for the ensuing year. Such license shall render the holder a legal practitioner of nursing for the period stated on it. The board shall prescribe by regulation the beginning and ending of the licensed year.

(2) Any licensee who allows his license to lapse by failing to renew the license as provided above may be reinstated by the board on [satisfactory explanation for such failure to renew and on] payment of current fee for original licensure *and by meeting the regulations of the board.*

(3) An application for renewal of license shall be sent to the last known address of each licensee.

(4) [(3)] Any person practicing nursing during the time the license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of the provisions of KRS 314.011 to 314.161 and 314.991.

Section 7. KRS 314.091 is amended to read as follows:

(1) The board shall have power to deny, revoke, probate or suspend any license to practice nursing issued by the board or applied for in accordance with KRS 314.011 to 314.161 and 314.991, or to otherwise discipline a licensee upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing; or

(b) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing [is guilty of a crime or gross immorality]; or

(c) Has negligently or wilfully acted in a manner inconsistent with the practice of nursing as defined herein [is unfit or incompetent by reason of negligence, habits or other causes; or is habitually intemperate or is addicted to the use of habit-forming drugs; or is mentally incompetent]; or

(d) Has a license to practice as a nurse denied, suspended, probated or revoked in another jurisdiction on grounds sufficient to cause a license to be denied, suspended, probated or revoked in this Commonwealth [is guilty of unprofessional conduct]; or

(e) Has wilfully or repeatedly violated any of the provisions of KRS 314.011 to 314.161 and 314.991.

(2) In all *hearings* [proceedings] for *denial, probation,* suspension or revocation of the license of a registered or practical nurse, the licensee shall be furnished with a copy of the charges and shall be given at least thirty (30) days to prepare defense. The person charged shall be heard by the board *or its designated hearing officer* in person or by counsel or both, as may be desired. The presiding officer of the *hearing* [board] may administer the oath in any manner arising in the course of duties. In the hearing the board may take oral or written proof for or against the aggrieved person. *A suspended or revoked license may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.*

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents. Said subpoenas may be enforced by circuit court as for contempt. Any order or subpoena of such court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) The board, or any member thereof, may administer oaths, take testimony, hear proof and receive exhibits in evidence at the hearing.

(5) The board shall not be bound by technical rules of evidence.

(6) A stenographic record of the hearing shall be kept and a transcript thereof filed with the board.

(7) At all hearings on request of the board the attorney general of this state or one (1) of his assistants designated by him shall appear and represent the board.

(8) The decision of the board shall be by majority vote thereof.

(9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the court of appeals within thirty (30) days after the entry of said order. The petition shall state the grounds upon which the review is asked and shall pray that the order of the board be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon the executive director of the board and thereon the executive director shall certify and file in the court a transcript of the record upon which the order complained of was entered. No new or additional evidence shall be introduced in the court except as to fraud or misconduct affecting the outcome of the case, but the court shall otherwise hear the case upon the record as attested by the executive director of the nursing board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determine whether or not:

(a) The board acted without or in excess of its power;

(b) The order appealed from was procured by fraud or misconduct;

(c) Substantial evidence supports the order appealed from;

(d) The board's decision is supported by the law. The court may affirm, modify or set aside the board's order in whole or in part, or may remand the case to the board for further evidence, and may in its discretion, stay the effect of the board's order pending its determination of the case. The court's order shall have the force and effect of a decree in equity.

Section 8. KRS 314.101 is amended to read as follows:

(1) KRS 314.011 to 314.161 and 314.991 does not prohibit: The furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to their program of study by students enrolled in nursing education programs *approved* [accredited] by the board; the practice of any legally qualified nurse of another state who is employed by the U.S. government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the employment for the purpose of giving nursing assistance of aides, technicians, orderlies, attendants, or other ancillary workers in private homes, hospitals, nursing homes, physicians' offices, or other institutions and agencies.

(2) Nothing in KRS 314.011 to 314.161 and 314.991 shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in the connection with the practice of the religious

tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in KRS 314.011 to 314.161 and 314.991.

(3) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for and paid the fee for licensure by examination or indorsement. Temporary work permits shall be issued only for the length of time required to process applications for indorsement or to conduct and determine the results of examinations and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(4) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.

(5) Any nurse educated outside the U. S. who has not passed the state board test pool exam shall not be issued a work permit.

Section 9. KRS 314.111 is amended to read as follows:

(1) An institution desiring to conduct a school of nursing shall apply to the board and submit evidence that it is prepared to carry out the minimum *approved* [prescribed] basic curriculum in nursing and that it is prepared to fulfill other requirements of standards which are established by KRS 314.011 to 314.161 and 314.991 and the [duly] adopted regulations of the board. No person shall operate a nursing education program or school of nursing without complying with the provisions of this section.

(2) A survey of the institution and its proposed education program shall be made by the executive director or an authorized employe of the board who shall submit a written report of the survey to the board. If in the opinion of the board the requirements for an *approved* [accredited] nursing education program or school of nursing are met it shall *approve* [accredit] the school.

(3) Periodic surveys of all schools of nursing shall be made under the supervision of the board. Written reports of such surveys shall be submitted to the board. If the board determines that any approved school of nursing is not maintaining the standards required by the statutes and *the regulations of* [by] the board, notice thereof in writing specifying their deficiencies shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after hearing.

Section 10. KRS 314.121 is amended to read as follows:

(1) The governor shall appoint a board of nursing [education and nurse registration] consisting of *eleven (11)* [seven (7)] members. *Seven (7)* [Six (6)] members shall be registered nurses licensed to practice in the Commonwealth. *Three (3) shall be practical nurses licensed to practice in the Commonwealth.* One (1) member shall be a citizen at large, who is not associated with or financially interested in the practice or business regulated. Each appointment shall be for a term of four (4) years *expiring on June 30 of the fourth year.* [At least three (3) months before the expiration of the term of any member of the board,] *By March 1* the Kentucky Nurses Association shall submit to the governor a list of members qualified for appointment, *as R.N. members,* in number not less than twice the number of appointments to be made, from which list the governor shall make each appointment or appointments [as] necessary *by July 1. By March 1, the Kentucky state association of licensed practical nurses shall submit to the governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the governor shall make each appointment or appointments as necessary by July 1. Each year two (2) R.N. and one (1) L.P.N. term shall expire on June 30 except that every fourth year one (1) R.N. term and one (1) consumer term shall expire on June 30.*

(2) A vacancy on the board shall be filled by the governor as provided for under subsection (1).

(3) The governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(4) Each *R.N.* [nurse] member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an *approved* [accredited] school of nursing, a registered nurse in this state. *All* [and hold at least a bachelor's degree in nursing and in addition,] shall have had at least five (5) years of experience, *in nursing* three (3) of which shall immediately precede such appointment. *Three (3) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; and one (1) shall be in nursing administration* [in administration or teaching in schools of nursing or administration or supervision in nursing service. At least one (1) member of the board shall be a registered nurse faculty member of an approved school of practical nursing].

(5) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state, and have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment.

(6) [(5)] The governor shall appoint an advisory council to the board consisting of seven (7) members to be selected one (1) each from lists submitted by Kentucky Medical Association, Kentucky Hospital Association, Kentucky *Association of Health Care Facilities* [Nursing Home Association], Kentucky Nurses Association, Kentucky State Association of Licensed Practical Nurses, Kentucky Dental Association and Kentucky Pharmaceutical Association. The council shall function in an advisory capacity only as a constructive force in establishing and maintaining standards of *nurse competency* [nursing] and licensure regulations in the interest of public protection, and, in this connection shall be provided with copies of any proposed regulations of the board at least thirty (30) days prior to their filing with the legislative research commission. *The terms shall be for four (4) years. Two (2) shall be appointed each year except every fourth year when only one (1) shall be appointed.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a nurse practice council to be made up of eight (8) members, two (2) of which shall be from the board of nursing, three (3) from the board of medical licensure and three (3) advanced registered nurse practitioners. The advanced registered nurse practitioner members shall include one (1) certified nurse midwife, and one (1) nurse practitioner who shall be nominated from members chosen by their respective nursing specialty groups or organizations and recommended to the board of nursing for appointment.

(2) The council shall meet annually or as the members designate and shall seek all available information from concerned nursing groups. The council shall have the duty of recommending standards in the performance of such acts requiring additional education which is recognized jointly by the nursing and medical professions. The board of nursing may authorize the performance of such additional acts by its regulations, after seeking all available information from the groups to be regulated. Such regulations shall not be inconsistent with statutory law.

(3) The terms for the council shall be for four (4) years except those initially appointed shall be: the board of nursing members for two (2) and three (3) years; and the advanced registered nurse practitioner for two (2), three (3) and four (4) years; the board of medical licensure members for two (2), three (3) and four (4) years respectively. No member shall serve for more than two (2) consecutive terms.

Section 12. KRS 314.131 is amended to read as follows:

(1) The board shall meet *at least* annually [in Frankfort within thirty (30) days after each annual appointment or appointments] and shall elect from its members a president and a secretary [-treasurer]. *The election shall be held in June of each year.* [It shall hold such other meetings during the year as may be deemed necessary to transact business.] A majority of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to adopt and [, from time to time,] revise [such rules and] regulations not inconsistent with the law, as may be necessary to enable it to carry into effect the provisions of KRS 314.011 to 314.161 and 314.991. The board shall *approve* [prescribe] curricula and standards for schools of nursing and courses preparing persons for licensure *and shall monitor standards for nurse competency* under KRS 314.011 to 314.161 and 314.991. It shall provide for surveys of such schools and courses at such time as may be necessary, approve such schools and courses as meet the requirements of KRS 314.011 to 314.161 and 314.991 and of the board, evaluate and approve courses for affiliation, and examine, license and renew the license of duly qualified applicants; *by regulations shall determine notice of place and time of licensure examinations; administer continuing education requirement; and* it shall conduct hearings upon charges calling for discipline of a licensee *on probation* [or denial] or suspension or revocation of a license, have power to issue subpoenas, and compel the attendance of witnesses, administer oaths to persons giving testimony at hearings, and cause the prosecution of all persons violating any provisions of KRS 314.011 to 314.161 and 314.991. It shall keep a record of all its proceedings and make an annual report to the governor.

(2) The board shall employ a qualified person to serve as executive *director* [secretary] to the board, and shall fix his compensation and define his duties. It may employ such other persons as may be necessary to carry on the work of the board.

(3) The executive *director* [secretary] shall *have* [meet] at least the qualifications for board members, *and a master's degree in nursing or equivalent* and shall have had at least two (2) years of experience in nursing [school] administration immediately preceding the time of his appointment.

(4) Each member of the board shall receive, in addition to [necessary] traveling, hotel and other necessary expenses, *fifty* [ten] dollars *($50)* [($10.00)] for each day he is actually engaged in the discharge of his official duties. [Employes of the board shall be reimbursed for necessary traveling, hotel or other necessary expenses incurred in the discharge of their duties.]

SECTION 13. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) As a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to complete the following continuing education requirements:

(a) Five (5) contact hours in 1982;
(b) Ten (10) contact hours in 1983;
(c) Fifteen (15) contact hours yearly thereafter.

A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience or two (2) hours of planned and supervised clinical practice designed to meet educational objectives.

(2) Contact hours required to satisfy the continuing education requirement shall be completed by April 30 of the respective licensure year. Contact hours in excess of those required may be carried forward into the next licensure year but they shall not be valid more than one (1) year beyond the year they were received.

(3) Only continuing education programs conducted under board approved sponsorship shall satisfy continuing education requirements stated in this section.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide.

(5) The board shall maintain continuing education records and it shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing education requirements.

Section 14. KRS 314.991 is amended to read as follows:

(1) Any person who violates any provision of KRS 314.011 to 314.041, *314.111, 314.121 and 314.141 to 314.161* [314.071 or 314.091 to 314.131] for which no other penalty has been provided shall be fined not less than five dollars ($5.00) nor more than fifteen dollars ($15.00). Each day he violates any provisions of KRS 314.011 to 314.041, *314.111, 314.121 and 314.141 to 314.161* [314.071 or 314.091 to 314.131] shall be considered a separate offense.

(2) Any person who wilfully makes any false representation to the board in applying for a license under KRS 314.011 to 314.041, *314.111, 314.121 and 314.141 to 314.161* [314.071 or 314.091 to 314.131] shall be fined not more than five hundred dollars ($500).

(3) Any person who violates any provisions of KRS 314.051 *to 314.091, 314.101, 314.131 or 314.181* [, 314.061, 314.081, 314.141 or 314.161] for which no other penalty has been provided shall be fined not less than five dollars ($5.00) nor more than fifteen dollars ($15.00). Each day he violates any provision of KRS 314.051 *to 314.091, 314.101, 314.131 or 314.181* [, 314.061, 314.081, 314.141 or 314.161] shall be considered a separate offense.

(4) Any person who wilfully makes any false representation to the board in applying for a license under KRS 314.051 *to 314.091, 314.101, 314.131, 314.181* [, 314.061, 314.081, 314.141 or 314.161] shall be fined not more than five hundred dollars ($500).

Section 15. KRS 314.081, Licenses under prior law entitled to renewal; KRS 314.141, Assistant board of practical nurse examiners, appointment; and KRS 314.151, Board's power limited, are repealed.

The Committee Amendment No. 1 to **HB 318** is as follows:

Amend printed copy of **HB 318,** page 7, line 22, after the word "*of*" delete the word "*practical*"

On page 23, line 6, after the word "include" insert the following words: "one (1) nurse anesthetist,"

On page 25, line 4, after the word "*requirement;*" insert the following words: "*register and designate those persons qualified to engage in advanced nursing practices;*"

The Committee Amendment No. 2 to **HB 318** is as follows:

Amend printed copy of **HB 318,** page 3, line 20, after the word "*practitioner*" add the following words: " *In the performance of those procedures which are normally construed as the practice of medicine, the nurses will conform to the standards of the medical practice act and established medical protocol.*"

SB 76, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A restaurant wine license may be issued to an applicant, who is an owner or lessee of a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) people at tables.

(2) The issuance of a restaurant wine license shall not be subject to the limitations of KRS 241.060(2) and 241.065.

(3) A restaurant wine license shall authorize a licensee to purchase, receive and sell wine at retail for consumption on the licensed premises. Such licensee shall purchase wine only from licensed wholesalers.

Section 2. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1) Distiller's license, per annum	$500.00
(2) Rectifier's license, per annum	$1500.00
(3) Blender's license, per annum	$500.00
(4) Vintner's license, per annum	$500.00
(5) Small winery license, per annum	$250.00
(6) Wholesaler's license, per annum	$1000.00
(7) Retail package license, per annum:	
(a) In counties containing cities of the first class	$600.00
(b) In counties containing cities of the second class	$500.00
(c) In counties containing cities of the third class	$400.00
(d) In counties containing cities of the fourth class	$300.00
(e) In all other counties	$200.00
(8) Retail drink license, per annum:	
(a) In counties containing cities of the first class	$800.00
(b) In counties containing cities of the second class	$500.00
(c) In counties containing cities of the third class	$400.00
(9) Transporter's license, per annum	$10.00
(10) Dining car license, per annum	$50.00
(11) Special nonbeverage alcohol vendor's license, per annum	$2.00
(12) Special industrial alcohol license, per annum	$2.00
(13) Special nonindustrial alcohol license, per annum	$2.00
(14) Special agent's or solicitor's license, per annum	$2.00
(15) Special storage or warehouse license, per annum	$50.00

(16) Special temporary license, per month or part of month, one-sixth of the fees enumerated in subsection (7).

(17) Special private club license, per annum	$150.00
(18) Special Sunday retail drink license	$300.00
(19) *Restaurant wine license, per annum:*	
(a) New applicants	*$300.00*
(b) Renewals	*$100.00*

(20) Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 3. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to distilled spirits and wine retail package licenses, distilled spirits and wine retail drink licenses, *restaurant wine licenses* and malt beverage retailers' licenses. The license fees shall not exceed twice the amount of the fees imposed in KRS 243.030 and

243.040 for such licenses except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300).

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 4. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to the licenses provided for in subsections (1), (2), (3), (5), (6), (7), (15), (16), [and] (17) *and (19)* of KRS 243.030 and subsections (1), (2), (3) and (6) of KRS 243.040. The fees imposed shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 for such licenses, except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300), the fee for a malt beverage retailer's license may be fixed at not exceeding two hundred dollars ($200), the fee for a brewer's license shall not exceed five hundred dollars ($500), and the fee for a distiller's license shall not exceed five hundred dollars ($500).

Section 5. KRS 243.080 is amended to read as follows:

There shall be credited on the fee for retail package, [and] retail drink *and restaurant wine* licenses issued by the state, one-half (1/2) of any amount required to be paid to any county or city for the same privilege for the same year, but the amount of the fee for the state license shall not be reduced more than fifty percent (50%).

The Committee Amendment No. 1 to **SB 76** is as follows:

Amend printed copy of **SB 76,** page 1, line 9, by deleting the word "not";

And on page 3, line 16, by deleting "*$100.00*" and substituting in lieu thereof "*$200.00*".

The Committee Amendment No. 2 to **SB 76** is as follows:

Amend printed copy of **SB 76,** page 5, line 21, by adding after line 21 the following new sections:

"SECTION 6. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

In any county containing a city of the second class or in any city of the second class in which prohibition is in effect, an election may be held in the manner prescribed in KRS 242.010 to 242.040 and KRS 242.060 to 242.120 to take the sense of the people of the county or city as to the sale of distilled spirits, wine and malt beverages by the drink for consumption on the premises in hotels, motels and inns containing not less than fifty (50) sleeping units and having dining facilities for not less than 100 persons and, in restaurants having dining facilities for not less than 100 persons.

"SECTION 7. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

The proposition to be voted on in any election held pursuant to KRS 242.127 and this Act shall be: "Are you in favor of the sale of distilled spirits, wine and malt beverages by the drink for consumption on the premises in (name of county or city) by hotels, motels and inns containing not less than fifty (50) sleeping units and having dining facilities for not less than 100 persons and, in restaurants having dining facilities for not less than 100 persons?" There shall be two (2) places on the ballot for registering votes, one (1) for votes favoring the proposition which shall be designated by the word "yes", and one (1) for votes opposing the proposition which shall be designated by the word "no". Each voter shall designate his vote by the word "yes" or the word "no".

"SECTION 8. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

In no event shall a license be issued for any restaurant or any dining facility in a hotel, motel or inn, unless the applicant can demonstrate to the administrator that gross receipts of the restaurant or the dining facility from the sale of food for consumption on the premises is reasonably estimated to be not less than fifty percent (50%) of the total gross receipts of such restaurant or dining facility for the license period.

"SECTION 9. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

If the sense of the people in an election held pursuant to the provisions of this Act is "yes", no other local option election shall be held in that county or city, unless, an additional election is first held pursuant to the provisions of this Act in which the sense of the people is "no"."

Motions, Petitions and Communications

Representative B. Richardson moved that former members be granted the privilege of the floor. Agreed.

Representative Schmidt moved the adoption of the following Legislative Citation No. 28:

The House of Representatives hereby congratulates Miss Charlotte Schneider, Kentucky's Teacher of the Year 1977 for her outstanding contribution to Education in the Commonwealth of Kentucky. She is a devoted and dedicated kindergarten teacher, serving for 16 years at the Robert D. Johnson Elementary School in the Fort Thomas Independent School System. Her philosophy embraces the ultimate goal of education "helping children develop a love for learning" that results in living the life of the good citizen. Her love for children, commitment, and performance in the classroom have enriched the hopes and aspirations of many. We applaud Miss Schneider, a distinguished educator, for her meritorious services. (Sponsored by Representative Schmidt)

Agreed.

The Clerk announced the filing of the following Floor Amendment to Bills and Resolutions:

Floor Amendment No. 1 to **HB 143** by Representative Robinson.

Floor Amendment No. 1 to **HB 71** by Representative Cyrus.

Floor Amendment No. 1 to **SB 67** by Representative Lindsay.

Floor Amendment No. 1 to **HB 17** by Representative Kleier.

Floor Amendment No. 1 to **HB 201** by Representative Overstreet.

Floor Amendment No. 1 to **HB 138** by Representative Brinkley.

Representative Plummer requested that he be recorded as voting "yea" on **HB 281**. Agreed.

Representative Guenthner moved that the rules be suspended for the purpose of making a motion to allow a roll call for co-sponsors of **HR 43.**

On the roll call the vote was yeas 37-W. Allen, Blandford, Boatwright, Boswell, Brinkley, Burnette, Carpenter, Crupper, Dawahare, DeFalaise, DeMarcus, Fitzgerald, Gay, Guenthner, Haering, Head, Holbrook, Holloway, Layman, Lindsay, Marcum, McKinney, Overstreet, Pearman, Plummer, Rattliff, Riner, Robinson, Romines, Schmidt, R. Smith, Stone, Trevey, Van Horn, Weinberg, Wilborn, Yates. Nays 13-J. Allen, Clarke, Dietz, Donnermeyer, Foster, Hines, Johnson, Jones, Mann, McBee, Sale, Turner, Williams.

The motion that the rules be suspended was rejected.

The Chair ruled that a suspension of the rules was necessary to allow the motion to be made.

Representatives Guenthner and Schmidt appealed the ruling of the Chair.

The Speaker vacated the Chair.

Speaker Pro Tempore Clapp assumed the Chair.

On the roll call the vote was yeas 51-Adams, J. Allen, Bendl, Bennett, Benson, Blandford, Boswell, Bruce, Burch, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guy, Head, Hines, Isler, Johnson, Jones, Kenton, Kidd, LeMaster, List, Little, McBee, Morris, Nett, Noe, Pearman, Petty, Richards, B. Richardson, P. Richardson, Sale, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Williams, Worthington. Nays 17-W. Allen, DeFalaise, DeMarcus, Gay, Guenthner, Holbrook, Holloway, Layman, Lindsay, Marcum, Overstreet, Plummer, Rattliff, Riner, Robinson, Schmidt, Wilborn.

The ruling of the Chair was upheld.

Speaker Kenton resumed the Chair.

Representative Pearman moved that the rules be suspended for introduction of and action on **HR 43.**

Representative Pearman moved that his motion that the rules be suspended be withdrawn. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 22** had been examined and found correctly enrolled. **HB 22** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 22 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative Lindsay moved that **HB 46** be taken from the Clerk's desk and placed in Orders of the Day.

On the roll call the vote was yeas 72-Adams, J. Allen, Arnold, Bendl, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Romines, Sale, F. Smith, R. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams. Nays 1-Overstreet.

The motion that **HB 46** be taken from the Clerk's desk and placed in Orders of the Day was adopted.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 406;** Representative Dawahare, **HB 332;** Representative Donnermeyer, **HB 1;** Representative Gay, **HB 193;** Representative Haering, **HB 390;** Representative Holbrook, **HR 43;** Representative Imes, **HB 239;** Representative Marcum, **HR 43;** Representative Weinberg, **HB 118.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 53** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 18, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved the adoption of the Committee Amendment No. 1 to **HB 18.** Agreed.

Representative Priddy moved that **HB 18** as amended be passed.

On the roll call the vote was yeas 95-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay,List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Weinberg.

HB 18 as amended was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 18** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 69, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Amendment No. 1 to **HB 69.** Agreed.

Representative DeFalaise moved the adoption of the Committee No. 2 to **HB 69.** Agreed.

Representative Fitzgerald moved that **HB 69** as amended be passed.

On the roll call the vote was yeas 97-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 69 as amended was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 69** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 71** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 172, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute to **HB 172.** Agreed.

Representative B. Richardson moved that **HB 172,** by way of Committee Substitute, be adopted.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Lindsay, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-List, McNutt.

HB 172, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 172,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 37, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved the adoption of the Committee Amendment No. 1 to **HB 37**. Agreed.

Representative Holloway moved that **HB 37** as amended be passed.

On the roll call the vote was yeas 94-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Pearman, Weinberg.

HB 37 as amended was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 37** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 122, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 122**. Agreed.

Representative LeMaster moved that **HB 122** as amended be passed.

On the roll call the vote was yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 2-Clarke, Van Horn.

HB 122 as amended was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 122** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 132 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HB 132** be recommitted to the Committee on Judiciary-Statutes.

On the roll call the vote was yeas 49-Adams, W. Allen, Bendl, Beshear, Boatwright, Brinkley, Brown, Burnette, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Fitzgerald, Gray, Guenthner, Haering, Hancock, Hines, Holbrook, Hurst, Johnson, Jones, Kidd, Layman, LeMaster, Lindsay, List, Little, Marcum, McBee, McKinney, McNutt, Noe, Overstreet, Pearman, Rattliff, Robinson, Siemens, F. Smith, Stone, Thomas, Trevey, Van Horn, Weinberg, Wilborn, Wright, Yates. Nays 34-J. Allen, Arnold, Blandford, Blythe, Boswell, Bruce, Clapp, Clarke, Crupper, Dietz, Donnermeyer, Dunn, Foster, Guy, Head, Isler, Kenton, Mann, May, Morris, O'Brien, Petty, Plummer, Richards, B. Richardson, Riner, Sale, Schmidt, Tobin, Turner, Wells, White, Williams, Worthington.

The motion that **HB 132** be recommitted to the Committee on Judiciary-Statutes was adopted.

Representative B. Richardson moved that consideration of **HB 143** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 159, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HB 159.** Agreed.

Representative B. Richardson moved that **HB 159** was amended be passed.

On the roll call the vote was yeas 22-Adams, Bennett, Carpenter, Clapp, Clarke, Craddock, Davenport, Donnermeyer, Dunn, Hurst, Kenton, Kleier, Mann, McNutt, Noe, Richards, Sale, Tobin, Williams, Worthington. Nays 68-J. Allen, W. Allen, Arnold, Bendl, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Burnette, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head. Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kidd, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, B. Richardson, Riner, Robinson, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Van Horn, White, Wilborn, Wright, Yates.

HB 159 as amended was defeated.

Representative B. Richardson moved that the vote by which **HB 159** as amended was defeated be reconsidered and said motion be postponed indefinitely. Agreed.

HB 185, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Davenport moved the adoption of the Committee Amendment No. 1 to **HB 185.** Agreed.

Representative Davenport moved that **HB 185** as amended be passed.

On the roll call the vote was yeas 80-J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kidd, Layman, LeMaster, List, Little, Marcum, May, Maynard, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 16-Adams, Benson, Blandford, Burnette, Clarke, Crupper, Gray, Johnson, Kenton, Kleier, Lindsay, McNutt, Nett, Thomas, Turner, Williams.

HB 185 as amended was passed and the title agreed to.

Representative Davenport moved that the vote by which **HB 185** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 282 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved that **HB 282** be passed.

On the roll call the vote was yeas 94-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 282 was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 282** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 29 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 29** be passed.

On the roll call the vote was yeas 88-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-Burnette, Fitzgerald, Imes.

SB 29 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 29** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative B. Richardson moved the Introduction of Bills and Resolutions and Posting of Bills and Resolutions be continued at this time. Agreed.

Introduction of Bills and Resolutions

HB 423, by Representative Richards: AN ACT relating to supervision and control of the electric plant.

HB 424, by Representative Jones: AN ACT relating to racing.

HB 425, by Representatives Van Horn and Hancock: AN ACT relating to ad valorem taxes.

HB 426, by Representatives Patrick, Dawahare, Gay, Haering and R. Smith: AN ACT relating to establishing a school of veterinary medicine.

HB 427, by Representative Dawahare: AN ACT relating to constables.

HB 428, by Representative Patrick: AN ACT relating to solid waste.

HB 429, by Representatives DeFalaise and Petty: AN ACT relating to annexation.

HB 430, by Representatives DeFalaise and Petty: AN ACT relating to municipal boundaries.

HB 431, by Representatives Siemens and Nett: AN ACT relating to utility rate restructuring.

HB 432, by Representative Craddock: AN ACT relating to memorial licensure.

HB 433, by Representative DeFalaise: AN ACT relating to public works in cities.

HB 434, by Representative DeFalaise: AN ACT relating to holidays.

HB 435, by Representatives Nett, Guenthner, Bendl, Bennett, Benson, Blythe, Burch, Dunn, Haering, Hines, Holloway, Kidd, Kleier, Maynard, O'Brien, Priddy, Riner, Romines, Siemens, Williams, Wright and Yates: AN ACT relating to joint city-county motor vehicle parking authorities.

HB 436, by Representative Morris: AN ACT relating to public works.

HB 437, by Representative Trevey: AN ACT relating to elections.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Labor and Industry: **HB 316, HB 351.**

State Government: **HR 40, HB 376, HR 9, HB 378, HCR 8, HB 230.**

Highways and Traffic Safety: **HB 211.**

Cities: **HB 329, HB 369.**

Elections and Constitutional Amendments: **HB 75.**

Labor and Industry: **HB 358, HB 361.**

Health and Welfare: **HB 336, HB 362.**

Banking and Insurance: **HB 375, HB 366.**

Judiciary-Statutes: **SB 115.**

Public Utilities and Transportation: **HB 244, HB 377, HB 383.**

Announcements (continued)

The Clerk announced a meeting of the Committee on Rules five minutes after adjournment and a meeting of the Committee Chairmen immediately after the Committee on Rules.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 8, 1978.

On the roll call the vote was yeas 57-Adams, Arnold, Bennett, Benson, Beshear, Boatwright, Boswell, Brown, Bruce, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gay, Guy, Haering, Head, Hines, Holbrook, Holloway, Isler, Kenton, Kidd, Kleier, Layman, Mann, Marcum, May, McBee, Morris, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wilborn, Worthington. Nays 6-Deskins, Fitzgerald, Guenthner, Imes, Overstreet, P. Richardson.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 8, 1978

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All members present.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 7, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 438, by Representative Maynard: AN ACT relating to foreclosure of loans.

HR 44, by Representatives Pearman, Boswell and Romines: A RESOLUTION honoring Vernon R. Rose and the "Over-the-Hill Gang" of Radcliffe, Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 417.**

Appropriations and Revenue: **HB 425.**

Business Organizations and Professions: **HB 424, HB 432.**

Cities: **HB 423, HB 429, HB 430, HB 433, HB 435, HB 436.**

Counties and Special Districts: **HB 427.**

Education: **HB 421, HB 426, SB 16, SB 32.**

Elections and Constitutional Amendments: **HB 420, HB 437.**

Highways and Traffic Safety: **HB 428.**

Judiciary-Statutes: **HB 418, HB 419.**

Public Utilities: **HB 422, HB 431, SB 127.**

State Government: **HB 434, HR 43.**

Report of Committees

The Committee on Rules reported **SB 51, HB 43, HB 147, HB 166, HB 171, HB 173**, and **HB 44** have been posted for passage in Orders of the Day, February 9, 1978.

The Committee on Education reported **HB 118** with Committee Substitute attached thereto, **SB 43,** and **SB 104** with theexpression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 118, AN ACT relating to the medical, dental and law schools.
Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The boards of trustees of the state colleges and universities offering degree programs in medicine, dentistry or law shall allocate seventy percent (70%) of the enrollment positions for the entering class each year, equally among each of the Kentucky congressional districts, using the population of each congressional district as determined by the last decennial federal census to determine that district's proportion of the positions, and shall assign these apportioned enrollment positions for each district to those applicants who are legal residents in that congressional district.

(2) Fifteen percent (15%) of the remaining positions shall be allocated to the state at-large and assigned to applicants who are legal residents at any place within the state of Kentucky.

(3) Any qualified legal resident shall have a preference in securing an assignment to a position when compared to a nonresident.

(4) The total number of nonresidents assigned positions shall not exceed fifteen percent (15%) of the total entering class enrollment positions assigned for any school year.

(5) The selection of entering class medical, dental or law students shall be accomplished competitively with due consideration being given scholastic standings, recommendations of the pre-professional advisory committees of the various schools where the applicants pursue the pre-professional academic program, and their performance on any required admission test, and any other procedures that deal fairly with the applicant group as a whole.

The Committee Substitute to **HB 118** is as follows:

HB 118, AN ACT relating to the medical, dental and law schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.020 is amended to read as follows:

The council on public higher education in Kentucky shall:

(1) Engage in analyses and research to determine the overall needs of higher education in the Commonwealth.

(2) Develop and transmit to the governor comprehensive plans for public higher education which meet the needs of the Commonwealth. The plans so developed shall conform to the respective functions and duties of the state colleges and universities, the community colleges, and the University of Kentucky as provided by statute. The council shall for all purposes of federal legislation relating to planning be considered the "single state agency" as that term may be used in such federal legislation; Provided, however, That when such federal legislation requires representation on any such "single state agency" by private or nonstate institutions of higher education in the state, the commission on higher education, or its successor agency, shall be considered the "single state agency" as that term may be used in such federal legislation.

(3) Determine the amount of entrance and/or registration fees and approve the qualifications for admission to the public institutions of higher education. In determining the entrance and/or registration fees for non-Kentucky residents, the council shall consider the fees required of Kentucky students by institutions in adjoining states, the resident fees charged by other states, the total actual per student cost of training in the institutions for which the fees are being determined, and the ratios of Kentucky students to non-Kentucky students comprising the enrollments of the respective institutions, and such other factors as the council may in its sole discretion deem pertinent. *In approving the qualifications for admission to the professional programs in law, medicine, and dentistry in the public institutions of higher education the council shall establish procedures or regulations to provide for equitable distributing among all regions of the Commonwealth. The council shall utilize the most current official population data and shall as nearly as possible insure a distribution of enrollment in these programs that approximates the ratio of the population of each congressional district to the population of the state as a whole. The council shall report these data annually as a separate section in its official enrollment report.*

(4) Consider the requirements and review the budget requests, which shall be prepared in the manner and submitted by the institutions to the council by dates prescribed by the council, of the institutions of public higher education as to their appropriate level of support considering the functions of the institutions and their respective needs. The individual institutions' budget requests, including tuition and registration fee schedules for all categories of students, along with council recommendations which shall be submitted to the governor through the executive department for finance and administration not later than November 15 of each odd numbered year.

(5) Review and approve all capital construction projects the cost of which exceeds one hundred thousand dollars ($100,000) approved by the governing boards of the state-supported institutions of higher education prior to the institutions' submission of such projects to the executive department for finance and administration and/or state property and buildings commission.

(6) Require reports from the executive officer of each institution it deems necessary for the effectual performance of its duties.

(7) Publish annually a report of the educational and financial affairs of the institutions and disseminate other information relating to higher education.

(8) Approve all graduate degree programs including all schools and degree programs for which professional, regional and/or national accreditation of the school or program is available and/or licensing or certification of the graduate are required. Review proposals and make recommendations to the governor regarding the establishment of new state-supported community colleges and new four-year colleges. Provided, nothing in KRS 164.010, 164.020, 164.125, and 164.290 to 164.295 shall be construed to grant the council on public higher education authority to disestablish or eliminate any college of law which became a part of the state system of higher education through merger with a state college.

(9) Prescribe the curricula for teacher education.

(10) Elect a chairman annually from the voting membership and appoint an executive director and such staff as may be needed and fix their compensation without limitation of the provisions of KRS chapter 18 and KRS 64.640 subject to the approval of the commissioner of personnel and the commissioner of the executive department for finance and administration.

(11) Constitute the representative agency of the Commonwealth in all matters of higher education of a general and statewide nature which are not otherwise delegated to one or more institutions of higher learning. Such responsibility may be exercised through appropriate contractual relationships with individuals or agencies located within or without the Commonwealth. The authority includes but is not limited to contractual arrangements for programs of research, specialized training, and cultural enrichment.

SB 43, AN ACT relating to boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.160 is amended to read as follows:

Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(3), to be known as the "board of education of ...., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; *expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board members;* purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created.

Section 2. Whereas, the number of civil actions involving school board members acting in their official capacity has increased significantly, creating a situation whereby it is becoming increasingly difficult to obtain competent board members, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

SB 104, AN ACT relating to teacher retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1976, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, or

(b) Completion of thirty (30) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty (60) years [, and under (b) if less than age fifty-five (55) years].

(2) Any member shall be automatically retired as of July 1 next following the seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for thirty (30) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

Section 2. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service [whose age at retirement is fifty-five (55) years or more] shall be calculated as follows:

(a) For retirements effective during the 1976-77 fiscal year the annual allowance shall be sixty-four dollars ($64) times the number of years service credit prior to July 1, 1941, plus two percent (2%) of the final average salary times the number of years service credit after July 1, 1941. Actuarial discounts due to age at retirement may be applied as provided in subsection [s] (1)(c) [and (1)(d)] of this section.

(b) For retirements effective July 1, 1977, and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service prior to July 1, 1941, shall be eighty-eight dollars ($88) per year.

[(c) If the member has thirty (30) years or more of Kentucky service, including credit for military service and is less than fifty-five (55) years of age, the allowance shall be reduced by three percent (3%) for each year the member is less than fifty-five (55).]

(c) [(d)] If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1970, and annually on July 1 thereafter the annual retirement allowance of each retired teacher and of each beneficiary of a retirement option shall be increased in the amount of one percent (1%) of the retirement allowance in effect on July 1, 1970, or the date of retirement, whichever occurs later.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than sixty dollars ($60) multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than fifty-five dollars ($55). The above minimums shall be effective July 1, 1974, and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1976, the monthly retirement allowance of each member retired on or before June 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance for each year from the effective date of retirement or July 1, 1971, whichever is the later date, to July 1, 1976. Fractional years shall be calculated on a pro rata basis. The above percentages shall be based on an assumed minimum allowance of two hundred dollars ($200) per month and an assumed maximum of five hundred dollars ($500) per month of annuity in effect the previous month.

(6) Effective July 1, 1976, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to two dollars ($2) for each year of credited service prior to July 1, 1941. Each member who retired prior to July 1, 1977, and each recipient of a retirement option of such member shall receive an increase of two dollars ($2) per month for each year of credited service prior to July 1, 1941, to be effective July 1, 1977. No more than fifteen (15) years of service

prior to July 1, 1941, shall be used in calculating these increases for each member.

Section 3. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to teachers retired for service [who are age fifty-five (55) or older], to teachers retired by reason of disability, and to the spouses and minor children of said retired teachers, coverage may also be extended to spouses and to minor children of teachers in active contributing status who are deceased prior to retirement if such teachers were [fifty-five (55) years of age or older and] eligible for service retirement at the time of death.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the teachers' retirement system to qualify for such coverage.

(3) The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

The Committee on Highways and Traffic Safety reported **HB 59** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 59, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the department of transportation, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner [; and

(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the department of transportation, at all times that the vehicle is in motion].

(3) The secretary of the department of transportation shall by regulation fix minimum standards [for approved protective headgear and] for approved eye-protective devices, and prescribe the manner in which they shall be used. He shall maintain and cause to be published a list [of approved protective headgear and] of approved eye-protective devices. He may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab.

The Committee on Judiciary-Statutes reported **HB 269, HB 298** with Committee Substitute attached thereto, **HB 304** with Committee Amendment attached thereto, **HB 355,** and **SB 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 269, AN ACT relating to marriages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.060 is amended to read as follows:

No minister or priest shall solemnize marriage until he has obtained a license therefor from the county court of the county in which he resides, *or in which he serves as a minister or priest in a place of worship,* upon satisfying the court that he is a person of good moral character and in regular communion with his religious society, and upon giving covenant to the Commonwealth, with good surety, not to violate the law of this state concerning marriage. Any such license may be annulled by any county court, after notice to the person holding the license.

HB 298, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary [maintenance or temporary] support of a child of the marriage entitled to support *and the respondent may move the court for temporary maintenance*. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(3) On the basis of the showing made and in conformity with KRS 403.200 and 403.210, the court may issue a temporary injunction or restraining order and an order for temporary maintenance or support in amounts and on terms just and proper in the circumstances.

(4) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 2. KRS 403.200 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for *the respondent* [either spouse] only if it finds that the *respondent* [spouse seeking maintenance]:

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(a) The financial resources of the *respondent* [party seeking maintenance], including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the *respondent* [party seeking maintenance] to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the *respondent* [spouse seeking maintenance]; and

(f) The ability of the *petitioner* [spouse] from whom maintenance is sought to meet his needs while meeting those of the *respondent* [spouse seeking maintenance].

Section 3. KRS 403.210 is amended to read as follows:

(1) In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay *a reasonable amount which shall not exceed fifty percent (50%) of the parent's net income* [an amount reasonable or necessary] for his support, without regard to marital misconduct, after considering all relevant factors including:

(a) [(1)] The financial resources of the child;

(b) [(2)] The financial resources of the custodial parent;

(c) [(3)] The standard of living the child would have enjoyed had the marriage not been dissolved;

(d) [(4)] The physical and emotional condition of the child, and his educational needs; and

(e) [(5)] The financial resources and needs of the non-custodial parent.

(2) The custodial parent receiving child support shall make a monthly accounting of all child support received and expended to the non-custodial parent.

Section 4. KRS 403.270 is amended to read as follows:

(1) The court shall determine custody in accordance with the best interests of the child *and without preference for either parent.* The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community; and

(e) The mental and physical health of all individuals involved.

(2) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child.

Section 5. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

The Committee Substitute to **HB 298** is as follows:

HB 298, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.270 is amended to read as follows:

(1) The court shall determine custody in accordance with the best interests of the child *and equal consideration shall be given to each parent.* The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community; and

(e) The mental and physical health of all individuals involved.

(2) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child.

HB 304, AN ACT relating to issuance of summons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.410 is amended to read as follows:

The issuance of a summons rather than an arrest warrant shall be mandatory for all offenses which are deemed violations as defined in KRS 532.020(4) *and traffic infractions for which a sentence to a fine only can be imposed* unless the judicial officer finds that:

(1) The defendant previously has failed to respond to a citation or summons for an offense; or

(2) He has no ties to the community and there is a substantial likelihood that he will refuse to respond to a summons; or

(3) The whereabouts of the defendant are unknown and the issuance of an arrest warrant is necessary in order to subject him to the jurisdiction of the court; or

(4) Where arrest is necessary to prevent imminent bodily harm to the accused or to another; or

(5) For any offer good and compelling reason as determined by the judicial officer.

The Committee Amendment to **HB 304** is as follows:

Amend printed copy of **HB 304**, page 1, line 6, by deleting the word "*to*" and substituting in lieu thereof the word "*of*".

HB 355, AN ACT relating to carrying concealed deadly weapons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban county governments may carry concealed deadly weapons on or about their persons at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of *either:*

(a) a felony in which a deadly weapon was possessed, used or displayed*; or*

(b) carrying a concealed weapon under this section, in *either of* which case it is a Class D felony.

SB 69, AN ACT relating to the penal code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association.

(2) "Crime" means a misdemeanor or a felony.

(3) "Dangerous instrument" means any instrument, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury.

(4) "Deadly weapon" means any weapon:

(a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged; or

(b) Any knife other than an ordinary pocket knife; or

(c) Billy, nightstick, or club; or

(d) Blackjack or slapjack; or

(e) Nunchaku karate sticks; or

(f) Shuriken or death star; or

(g) Artificial knuckles made from metal, plastic or other similar hard material.

[(4) "Deadly weapon" means any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, billy, blackjack, nunchaku karate sticks, death star, plastic knuckles, or metal knuckles.]

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one year in the custody of the Bureau of Corrections may be imposed.

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government.

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association.

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law.

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015.

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve months can be imposed.

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state or by any law, order, rule or regulation of any governmental instrumentality authorized by law to adopt the same.

(12) "Person" means human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental authority.

(13) "Physical injury" means substantial physical pain or any impairment of physical condition.

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object.

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ.

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral.

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

Section 2. KRS 504.050 is amended to read as follows:

(1) Evidence of mental disease or defect which is offered to show lack of criminal responsibility is not admissible unless the defendant files a written notice of his intention to rely on such defense at least 20 days prior to the day of trial or at such later time as the court may for good cause permit. Upon filing of such notice, the prosecution shall be granted reasonable time prior to trial to move for an examination of the defendant under subsection (2) and to prepare the case for the Commonwealth.

(2) Whenever the defendant has filed the notice required by subsection (1) or whenever there is reason to doubt his fitness to proceed, the court shall appoint at least one qualified psychiatrist to examine and report upon the mental condition of the defendant and, to accomplish this, may order the defendant to be committed to a state mental hospital for the purpose of an examination for a period of not more than *thirty (30)* [ten (10)] days. A qualified psychiatrist retained by the defendant shall be permitted to witness and participate in the examination.

(3) As soon as practicable after the defendant has given notice of his intention to rely on the defense of mental disease or defect, but in any event no less than ten days before trial, except as provided otherwise by court for good cause shown, the prosecution shall file and serve upon the defendant the names and addresses of the witnesses the state proposes to offer in denial of the defendant's defense, along with any medical reports prepared by those witnesses in connection with the defendant's mental condition.

Section 3. KRS 514.020 is amended to read as follows:

(1) It is a defense to prosecution for theft that the actor:

(a) Was unaware that the property or service was that of another; or

(b) Acted under a claim of right to the property or service involved or a claim that he had a right to acquire or dispose of it as he did; or

(c) Took property exposed for sale, intending to purchase and pay for it promptly, or reasonably believing that the owner, if present, would have consented.

(2) It is no defense that theft was from the actor's spouse, except that misappropriation of household and personal effects or other property normally accessible to both spouses is theft only if it involves the property of the other spouse and only if it occurs after the parties have ceased living together.

(3) It shall be prima facie evidence of intent to commit theft by *deception* [fraud] when one who has leased or rented the personal property of another fails to return the personal property to its owner within 10 days after the lease or rental agreement has expired. It shall also be prima facie evidence of intent to commit theft by *deception* [fraud] when one presents to the owner identification which is false, fictitious or not current as to name, address, place of employment or other items of identification for the purpose of obtaining the lease or rental agreement. Nothing herein contained shall relieve the owner from making demand for return of property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement shall constitute proper demand.

Section 4. KRS 514.120 is amended to read as follows:

(1) A person is guilty of obscuring the identity of a machine *or other property* when he:

(a) Removes, defaces, covers, alters, destroys or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark *including property marked with a social security number or motor vehicle operator's license number for identification purposes* upon any automobile or other propelled vehicle, machine, or electrical or mechanical device *or other property* with intent to render it unidentifiable; or

(b) Possesses for the purpose of sale in the course of business any automobile or other propelled vehicle, machine, or electrical or mechanical device *or other property* knowing that the serial number or other identification number or mark *including property marked with a social security number for identification purposes* has been removed, defaced, covered, altered, destroyed or otherwise obscured.

(2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device *or other property* held for sale in the course of business on which the serial number or any other distinguishing identification number or mark *including property marked with a social security number or motor vehicle operator's license number for identification purposes* has been removed, defaced, covered, altered, destroyed or otherwise obscured is prima facie evidence of knowledge of that fact.

(3) A report by the defendant to the police or other appropriate government agency prior to arrest or authorization of a warrant by a court is a defense to a charge of violating subsection (1)(b).

(4) Obscuring the identity of a machine *or other property* is a Class A misdemeanor.

Section 5. KRS 518.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Benefit" means gain or advantage to the beneficiary or to a third person pursuant to the desire or consent of the beneficiary.

(2) "Event" means a sports contest *or other public performance* to which the general public is not admitted without consideration.

(3) "Sports contest" means any professional or amateur sport, athletic game or contest, or race or contest involving machines, persons or animals that is viewed by the public.

(4) "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee or judge, or otherwise to officiate at a sports contest.

(5) "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team.

(6) "Public performance" means any form of entertainment other than a sports contest involving machines, persons, animals or objects that is viewed by the public.

Section 6. KRS 532.080 is amended to read as follows:

(1) When a defendant is found to be a persistent felony offender, the jury, in lieu of the sentence of imprisonment assessed under KRS 532.060 for the crime of which such person presently stands convicted, shall fix a sentence of imprisonment as authorized by subsection (6) of this section. When a defendant is charged with being a persistent felony offender, the determination of whether or not he is such an offender and the punishment to be imposed pursuant to subsection (6) of this section shall be determined in a separate proceeding from that proceeding which resulted in his last conviction. Such proceeding shall be conducted before the court sitting with the jury that found the defendant guilty of his most recent offense unless the court for good cause discharges that jury and impanels a new jury for that purpose.

(2) A persistent felony offender in the second degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of one (1) previous felony. As used in this provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on the previous felony conviction within five (5) years prior to the date of commission of the felony for which he now stands convicted; or

2. Was on probation or parole from the previous felony conviction at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole on the previous felony conviction within five years prior to the date of commission of the felony for which he now stands convicted.

(3) A persistent felony offender in the first degree is a person who is more than twenty-one years of age and who stands convicted of a felony after having been convicted of two or more felonies. As used in this

provision, a previous felony conviction is a conviction of a felony in this state or conviction of a crime in any other jurisdiction provided:

(a) That a sentence to a term of imprisonment of one year or more or a sentence to death was imposed therefor; and

(b) That the offender was over the age of eighteen years at the time the offense was committed; and

(c) That the offender:

1. Completed service of the sentence imposed on any of the previous felony convictions within five (5) years prior to the date of the commission of the felony for which he now stands convicted; or

2. Was on probation or parole from any of the previous felony convictions at the time of commission of the felony for which he now stands convicted; or

3. Was discharged from probation or parole on any of the previous felony convictions within five (5) years prior to the date of commission of the felony for which he now stands convicted.

(4) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crime for which that person served concurrent or uninterrupted consecutive terms of imprisonment shall be deemed to be only one conviction, unless one of the convictions was for an offense committed while that person was imprisoned.

(5) A person who is found to be a persistent felony offender in the second degree shall be sentenced to an indeterminate term of imprisonment pursuant to the sentencing provisions of KRS 532.060(2) for the next highest degree than the offense for which convicted. A person who is found to be a persistent felony offender in the second degree shall not be eligible for probation, shock probation or conditional *discharge* [release].

(6) A person who is found to be a persistent felony offender in the first degree shall be sentenced to imprisonment as follows:

(a) If the offense for which he presently stands convicted is a Class A or Class B felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than twenty years nor more than life imprisonment; or

(b) If the offense for which he presently stands convicted is a Class C or Class D felony, a persistent felony offender in the first degree shall be sentenced to an indeterminate term of imprisonment, the maximum of which shall not be less than ten years nor more than twenty years.

(7) A person who is found to be a persistent felony offender in the first degree shall not be eligible for probation, shock probation, or conditional discharge, nor for parole until having served a minimum term of incarceration of not less than ten years.

SECTION 7. A NEW SECTION OF KRS CHAPTER 500 IS CREATED TO READ AS FOLLOWS:

Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of this state, and whenever during the continuance of the term of imprisonment there is pending in any jurisdiction of this state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred and eighty (180) days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

The court, in sentencing a person convicted of a felony, shall be authorized to run such sentence concurrent with any federal sentence received by that same defendant for a federal crime. The time spent in federal custody under such concurrent sentencing shall count as time spent in state custody.

The Committee on Labor and Industry reported **HB 9** with Committee Amendment attached thereto, **HB 39** with Committee Amendment attached thereto, and HB 10 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 9, AN ACT relating to labor relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.130 is amended to read as follows:

(1) Employes may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employes,

collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither employers or their agents nor employes or associations, organizations or groups of employes shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.

(3) The employes and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held and findings made pursuant to the Rules of Civil Procedure in the Commonwealth of Kentucky relating to motions for a temporary injunction, unless the employes or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.

The Committee Amendment to **HB 9** is as follows:

Amend printed copy of **HB 9,** pages 1 and 2, lines 20 and 21 (page 1) and line 1 (page 2) by deleting the words "*and findings made pursuant to the Rules of Civil Procedure in the Commonwealth of Kentucky relating to motions for a temporary injunction*".

HB 39, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided *by this chapter* [pursuant to Acts 1974, chapter 391], every employer shall pay to each of his employes wages at a rate of not less than *$2.00* [$1.30] an hour, beginning *on the effective date of this Act* [July 1, 1974 increasing to $1.60 an hour, beginning January 1, 1975].

(2) For any employe engaged in an occupation in which he customarily and regularly receives more than twenty dollars per month in tips from patrons or others, the employer may pay as a minimum fifty percent of the wage prescribed in subsection (1) of this section if he can establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in subsection (1) was received by the employe. [Provided, however, no employer shall under any circumstances pay a wage rate of less than 75 cents per hour under this subsection.] No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum hourly wage as required by this section. Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

The Committee Amendment to **HB 39** is as follows:

Amend printed copy of **HB 39,** page 1, lines 6 and 7 by deleting the words '*on the effective date of this Act*" and inserting in lieu thereof "*effective July 1, 1978 and $2.15 an hour effective July 1, 1979*".

HB 10, AN ACT relating to organization dues of public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18 IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth of Kentucky shall check off on the wages of public employes for the payment of dues to a labor organization or other organization of public employes upon written authorization by the public employe. Such authorization may be revocable by written notice to the appropriate payroll officer and the employe organization upon the will of the employe.

(2) A labor organization or other organization of public employes receiving such check off of dues may be required by the Commonwealth of Kentucky to defray the actual cost of making such deduction.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) All political subdivisions or instrumentalities of the Commonwealth of Kentucky shall check off on the wages of public employes for the payment of dues to a labor organization or other organization of public employes upon written authorization by the public employe. Such authorization may be revocable by written notice to the appropriate payroll officer and the employe organization upon the will of the employe.

(2) A labor organization or other organization of public employes receiving such check off of dues may be required by the political subdivisions or instrumentalities of the Commonwealth of Kentucky to defray the actual cost of making such deduction.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 153.**

State Government: **HR 41.**

Calendar

HB 208, HB 299, HB 29, HB 51, HB 215, HB 86, HB 318, and **SB 76** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Clerk announced a Republican caucus on recess.

Recess

Representative B. Richardson moved that the House recess for fifteen minutes for Democratic caucus. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 165** by Representative Nett.

Floor Amendment No. 1 **HB 51** Committee Substitute by Representative Foster.

Floor Amendment No. 2 to **HB 51** Committee Substitute by Representative Fitzgerald.

Floor Amendment No. 1 to **HB 29** by Representative Fitzgerald.

Floor Amendment No. 2 to **HB 143** by Representative DeFalaise.

Floor Amendment No. 1 to **HB 179** by Representative Overstreet.

Floor Amendment No. 1 to **HR 24** by Representative Lindsay.

Floor Amendment No. 2 to **HB 156** Committee Substitute by Representative DeFalaise.

Floor Amendment No. 1 to **HB 156** Committee Substitute by Representative DeFalaise.

Floor Amendment No. 1 to **HB 44** Committee Substitute by Representative Adams.

Floor Amendment No. 1 to **HB 299** by Representative Holbrook.

Floor Amendment No. 2 to **HB 201** by Representative Carpenter.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 23** and **SB 24** had been examined and found correctly enrolled. **SB 23** and **SB 24** read at length, compared, and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications (continued)

Representative B. Richardson moved that Representatives Stone, Dawahare, Little, Head, and Weinberg be elected to serve on the Coal County DevelopmentFund Commission. Agreed.

Representative B. Richardson moved that the nominees be elected by acclamation. Agreed.

Representative Cyrus moved the adoption of the following Legislative Citation No. 10:

The House of Representatives hereby congratulates the Greenup County High School Football Team as the 1977-78 Class 4A State-at-Large High School Champions for the Commonwealth of Kentucky. This body commends the members of the team Athletic Director, Larry Jordon, Head Coach Bill Trent and Assistant Coaches William Vallance, John Younce, Richard Barker, and Harold Robinson for their excellence in football competition. (Sponsored by Representative Cyrus)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning the co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Imes, **HB 345;** Representative Plummer, **HB 402;** Representative Riner, **HB 401;** Representative DeFalaise, **HR 43;** Representative Richards, **HB 370, HB 432.**

Orders of the Day

Representative B. Richardson moved that consideration of **HB 53** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 71 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative W. Allen moved that **HB 71** be passed.

Representative Cyrus moved the adoption of the following Floor Amendment No. 1 to **HB 71:**

Amend printed copy of **HB 71,** page 1, line 5, by placing a comma (,) after word "system" and adding "and labor-management relations, to include the collective bargaining process".

On the roll call the vote was yeas 25-Bendl, Bennett, Beshear, Blandford, Boswell, Brown, Cyrus, Deskins, Dietz, Dunn, Gray, Hancock, Isler, Kenton, Little, Mann, Noe, Petty, Priddy, Romines, F. Smith, Thomas, Van Horn, Williams, Yates. Nays 60-Adams, J. Allen, W. Allen, Arnold, Benson, Blythe, Burch, Carpenter, Clarke, Craddock, Crupper, Davenport, DeFalaise, DeMarcus, Fitzgerald, Foster, Guenthner, Guy, Haering, Head, Hines, Holloway, Hurst, Imes, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Overstreet, Patrick, Pearman, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Weinberg, Wells, Wilborn, Worthington, Wright.

The Floor Amendment No. 1 to **HB 71** was defeated.

On the roll call the vote was yeas 41-W. Allen, Arnold, Blythe, Boatwright, Brinkley, Carpenter, Davenport, DeFalaise, DeMarcus, Deskins, Foster, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Johnson, Layman, Marcum, Maynard, McNutt, O'Brien, Overstreet, Patrick, Rattliff, Riner, Robinson, Sale, Schmidt, R. Smith, Stewart, Stone, Trevey, White, Williams, Wright, Yates. Nays 48-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brown, Burch, Clarke, Craddock, Cyrus, Dawahare, Dietz, Dunn, Fitzgerald, Gray, Isler, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, May, McBee, McKinney, Nett, Noe, Pearman, Petty, Plummer, Priddy, B. Richardson, P. Richardson, Romines, Siemens, F. Smith, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, Worthington.

HB 71 was defeated.

Representative B. Richardson moved that consideration of **HB 143** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 46, by way of Committee Substitute, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 46**. Agreed.

Representative Lindsay moved that **HB 46,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright. Nays 0.

HB 46, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 46,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 42, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Substitute to **HB 42.** Agreed.

Representative Blythe moved that **HB 42,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 83-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 42, by way of Committee Substitute, was passed and the title agreed to.

Representative Blythe moved that the vote by which **HB 42,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 88, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HB 88.** Agreed.

Representative B. Richardson moved that **HB 88** as amended be passed.

On the roll call the vote was yeas 76-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 14-W. Allen, Dawahare, DeMarcus, Guenthner, Holbrook, Holloway, Layman, Patrick, Plummer, Robinson, R. Smith, Stewart, Turner, White.

HB 88 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 88** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 89** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 110, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 110.** Agreed.

Representative Clarke moved that **HB 110,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 110, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 110,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 114, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Amendment No. 1 to **HB 114.** Agreed.

Representative Little moved that **HB 114** as amended be passed.

On the roll call the vote was yeas 92-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 114, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 114** as amended was passed bereconsidered and said motion be postponed indefinitely. Agreed.

HB 137, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of the Committee Amendment No. 1 to **HB 137.** Agreed.

Representative DeFalaise moved that **HB 137** as amended be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Hines, Imes, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-Gray, Holbrook, Holloway.

HB 137 as amended was passed and the title agreed to.

Representative DeFalaise moved that the vote by which **HB 137** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 140 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved that **HB 140** be passed.

On the roll call the vote was yeas 90-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 140 was passed and the title agreed to.

Representative DeFalaise moved that the vote by which **HB 140** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 160, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 160.** Agreed.

Representative LeMaster moved the adoption of the following Floor Amendment No. 1 to Committee Substitute for **HB 160:**

Amend printed copy of Committee Substitute for **HB 160,** page 1, line 8, by deleting the word "shall" and inserting in lieu thereof the word "may".

Agreed.

Representative LeMaster moved that **HB 160,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 89-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-W. Allen, Guenthner, Patrick.

HB 160, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 160,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 201** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 271, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 271.** Agreed.

Representative LeMaster moved that **HB 271** as amended be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McBee, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 11-Benson, Burch, Clarke, Dunn, Johnson, Kenton, Mann, Priddy, F. Smith, Van Horn, Williams.

HB 271 as amended was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 271** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 67 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to **SB 67:**

Amend printed copy of **SB 67,** page 2, line 19, by deleting "shall" preceding "provide" and inserting in lieu thereof "may".

On the roll call the vote was yeas 76-Adams, J. Allen, Bendl, Bennett, Benson, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 3-W. Allen, Blythe, Imes.

Floor Amendment No. 1 to **SB 67** was adopted.

Representative Bruce moved that **SB 67** as amended be passed.

On the roll call the vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 67 as amended was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 67** as amended was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The following meetings were announced:

Committee on Rules, five minutes after adjournment.

The Committee on State Government, Room C, thirty minutes after adjournment.

The Committee on Appropriations and Revenue, regular meeting, 9 a.m., February 9, 1978; 11 a.m., hearing.

The Committee on Cities, regular meeting, 10 a.m.

Jefferson County Delegation, one half hour after adjournment, February 9, 1978, Room A.

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative B. Richardson moved that the three-day posting period be waived in regard to **HR 41.** Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 439, by Representative Layman: AN ACT changing the classification of the City of Brownsville, in Edmonson County.

HB 440, by Representatives Schmidt and Brown: AN ACT relating to insurance.

HB 441, by Representative Worthington: AN ACT relating to the compensation of property valuation administrators.

HB 442, by Representatives Fitzgerald, Beshear, J. Allen, Blythe, DeFalaise, Holloway and List: AN ACT relating to crimes, sentencing and corrections, and making an appropriation thereto.

HB 443, by Representatives Brinkley, Deskins, and Stone: AN ACT relating to emergency medical technicians.

HB 444, by Representatives Imes, Benson, Blandford, Clapp, Clarke, Dunn, Fitzgerald, Hancock, Kenton, Kleier, Lindsay, Mann, McBee, Noe, Richards, B. Richardson, Thomas, Wells and Yates: AN ACT relating to elections.

HCR 45, by Representative Williams: A CONCURRENT RESOLUTION directing the study of consumer reporting agencies and the need for the regulation thereof.

HR 46, by Representatives Siemens and Yates: A RESOLUTION relating to the safety of asbestos and fiberglass materials; and for other purposes.

HR 47, by Representative Imes: A RESOLUTION honoring the memory of the late former Congressman, the Honorable Frank Albert Stubblefield.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 188, HB 416, HB 202, HB 297, HB 350, HR 37, HB 405, SB 78.**

Judiciary-Courts: **SB 153.**

Agriculture and Natural Resources: **SB 102.**

Business Organizations and Professions: **HB 404, SB 132.**

Judiciary-Statutes: **SB 131, HB 307, HB 395, HB 408.**

Banking and Insurance: **SB 91, SB 93, SB 107, HB 325.**

Appropriations and Revenue: **HB 360.**

Highways and Traffic Safety: **HB 60.**

Announcements

The Clerk announced the change of time from 8 a.m. until 9 a.m. for a meeting of the Committee on Elections and Constitutional Amendments.

The Clerk announced a meeting of the Committee on Education five minutes after adjournment on February 9, 1978.

Adjournment

Representatives B. Richardson moved that the House adjourn until 2 p.m., Thursday, February 9, 1978.

On the roll call the vote was yeas 58-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Boswell, Brinkley, Brown, Bruce, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Dunn, Guy, Haering, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Morris, Nett, Noe, Patrick, Pearman, Plummer, Richards, B. Richardson, Robinson, Sale, F. Smith, Stewart, Stone, Thomas, Tobin, Van Horn, Weinberg, White, Wilborn, Williams, Worthington. Nays 6-Fitzgerald, Gray, Guenthner, Imes, Priddy, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 9, 1978

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Anthony B. Carson, Mill Creek Baptist Church, Radcliff, Kentucky.

The roll was called. All members present.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 8, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 445, by Representatives Bruce, Burnette, Morris, Imes, Adams, and Head: AN ACT relating to insurance rates.

HB 446, by Representative Wells: AN ACT relating to the Legislative Research Commission.

HB 447, by Representative Wells: AN ACT relating to the General Assembly.

HB 448, by Representative Wells: AN ACT relating to the Legislative Research Commission.

HB 449, by Representative Wells: AN ACT relating to the Legislative Research Commission.

HB 450, by Representative Wells: AN ACT relating to the Legislative Research Commission.

HB 451, by Representative Dawahare: AN ACT relating to motor vehicle usage tax.

HB 452, by Representative Little: AN ACT relating to probation and parole.

HB 453, by Representative Beshear: AN ACT relating to standing in the courts.

HB 454, by Representative Beshear: AN ACT relating to elections.

HB 455, by Representative Blythe: AN ACT relating to licensure of politicians.

HB 456, by Representative DeFalaise: AN ACT relating to planning and zoning.

HB 457, by Representative DeFalaise: AN ACT relating to residence homes.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

Senate Message

Announcing passage of **SB 114** and **SB 150.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions.

Agriculture and Natural Resources: **HB 443.**

Appropriations and Revenue: **HB 441.**

Cities: **HB 439.**

Elections and Constitutional Amendments: **HB 444.**

Health and Welfare: **HR 46.**

Judiciary-Courts: **HB 442.**

Labor and Industry: **HB 438.**

State Government: **HB 440, HR 44, HR 45, HR 47.**

Report of Committees.

The Committee on Agriculture and Natural Resources reported **HB 345** with Committee Amendment attached thereto, **HB 367, HB 406** with Committee Amendment attached thereto, **HR 21, SB 68** with Committee Amendment attached thereto, **SB 84,** and **SB 101** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 345, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.390 is amended to read as follows:

(1) No person shall take, pursue, or attempt to take or pursue or otherwise molest any elk, deer, wild turkey or bear unless the commissioner, with the approval of the commission, finds conditions and population that warrant an open season, then regulations shall be enacted to govern same.

(2) It shall be unlawful for any person to cast the rays of a spotlight, jacklight, or other artificial lighting devices on any highway or in any field, woodland, or forest, while having in his possession, or under his control, a firearm or other implement by which a deer or rabbit could be killed, even though such game be not shot at, injured or killed.

(3) It is unlawful for any dog to chase or molest deer in any manner, at any time, or at any place. Any conservation officer, peace officer, sheriff or constable may take necessary steps to stop, prevent, or bring under control any dog, or dogs, found chasing or molesting deer at any time.

(4) It shall be unlawful to shoot or attempt to shoot any wild birds or wild animals, protected or unprotected, from an automobile, or other vehicle, at any time or place. Boats may be used except as prohibited by state or federal regulations.

(5) It shall be unlawful to take, pursue, or attempt to take or pursue or otherwise molest any deer in any manner contrary to regulations promulgated under the authority of subsection (1) of this section.

Section 2. KRS 150.990 is amended to read as follows:

(1) Each bird, fish or animal taken, possessed, bought, sold or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the commissioner thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission hereunder, for which no definite fine or imprisonment is fixed, shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(3) Any person who violates any of the provisions of subsection (3) of KRS 150.090, subsections (1) and (2) of KRS 150.180, KRS 150.300, KRS 150.330, subsection (2) of KRS 150.360, KRS 150.485 or KRS 150.600 shall be fined not less than twenty-five ($25.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both.

(4) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to such penalties shall be liable to the department in an amount reasonably necessary to restock such fish or replenish such other wildlife which has been killed or destroyed.

(5) Any licensee who violates any provisions of this chapter or any regulations adopted by the commissioner thereunder shall, in addition to the penalties provided in subsections (2), (3) and (4) of this section, forfeit his license and shall not be permitted to purchase another license for the same calendar year.

(6) Any county court clerk or deputy who knowingly makes a false entry upon a license record or report, in violation of subsection (2) of KRS 150.190 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any person who violates *the* [any] provisions of KRS 150.390*(1), (2), (3) or (4)* shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

(8) Any person who violates the provisions of KRS 150.390(5) shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(9) Any person who violates the provisions of KRS 150.390(5) shall, in addition to the penalties prescribed in subsection (8) of this section, forfeit his hunting license and shall not be permitted to apply nor be issued a hunting permit for a period of one (1) to three (3) years and in addition shall be liable to the department in an amount reasonably necessary to replace any deer or wild turkey taken in violation of KRS 150.390(5).

(10) [(8)] Any person who violates KRS 150.525 shall be fined not less than twenty-five dollars ($25.00), nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both.

(11) [(9)] Any person who violates any regulation which has been or may be hereafter adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out or limits.

(12) [(10)] Any person violating the provisions of subsection (1) of KRS 150.670, shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(13) [(11)] Any nonresident who violates KRS 150.235, subsection (3), shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200).

(14) [(12)] No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced or remitted otherwise than expressly provided by law.

(15) [(13)] Any person who violates any provision of KRS 150.183 shall be fined not less than one hundred dollars nor more than five hundred dollars for each violation.

The Committee Amendment to **HB 345** is as follows:

Amend printed copy of **HB 345,** page 2, line 7, by inserting after the word "deer" the words "or wild turkey" and on page 4, lines 13 and 14, insert "or wild turkey" between the word "deer" and the word "taken"

HB 367, AN ACT relating to dairy product marketing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.750 is amended to read as follows:

(1) In addition to the annual license fee there is imposed an assessment on all milk, except bulk milk, and on cottage cheese and frozen dairy products sold in the Commonwealth or packaged or processed in the Commonwealth for distribution therein. The assessment shall be a fee of not more than *sixteen (16)* [eight (8)] mills per hundred weight on all milk used or processed in packaged or processed milk and cottage cheese; a fee of not more than *ten (10)* [two (2)] mills on each gallon of frozen dairy products, *including* [with the exception of] ice cream mix; and a fee of not more than *five (5)* [one (1)] mill*s* per dozen frozen novelties [; and a fee of not more than five (5) mills on each gallon of ice cream mix]. The commission may fix such assessment fees at lesser amounts and adjust such fees from time to time.

(2) The assessment fees shall be paid to the commission by:

(a) Each distributor with respect to the sale or disposition of milk, cottage cheese and frozen dairy products to consumers, or stores, or other distributors, within the Commonwealth; and

(b) Each store with respect to its purchases of milk, cottage cheese or frozen dairy products from any source other than from distributors who are subject to the reporting and payment provisions of this section.

(3)(a) The assessment fees shall be payable to the commission on or before the last day of the month following the month during which such products were sold or disposed of. Such returns shall be on forms to be prescribed and furnished by the commission, and shall contain such information as the commission may require. The commission may in addition require each milk dealer or handler, including a producer-handler, to file a return with the commission for any month, giving such information as the commission may require.

(b) All information furnished to or acquired by the commission pursuant to KRS 260.675 to 260.760 shall be kept confidential by all members and employes of the commission and only such information as the commission deems relevant shall be disclosed by it, and then only in an administrative or court proceeding.

(4) The assessment fees provided by KRS 260.675 to 260.760 shall not apply to milk, cottage cheese and frozen dairy products used or consumed on the farm where produced or manufactured, or distributed or sold by producer-handlers and stores in a total quantity not to exceed an equivalent of two thousand (2,000) pounds of whole fluid milk during a day.

HB 406, AN ACT relating to tobacco.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.290 is amended to read as follows:

(1) Each warehouse shall pay to the department an annual license fee of *one hundred dollars ($100.00)* [twenty-five dollars ($25.00)]. A license fee shall be paid on each warehouse building operated as a place of sale for tobacco, regardless of the number of such buildings owned by any individual, corporation, firm or other type of management organization. It shall be paid on July 1 of each year.

(2) The amount of the license fees collected by the department shall be paid into the state treasury to the credit of a revolving account to be used in the administration of this section.

Section 2. KRS 248.350 is amended to read as follows:

(1) No warehouse or warehouseman shall discriminate against any grower of tobacco by failing to accord to that grower all *rebates,* privileges and services extended to any other grower, nor shall any warehouse or warehouseman refuse to admit any tobacco to the warehouse floor so long as there is unreserved space available for the placing of tobacco upon the floor for the purpose of sale.

(2) No tobacco warehouseman selling leaf tobacco in this state shall discriminate between purchasers as to charges, samples, warranty or otherwise, whether the purchasers are members of the tobacco exchange or not.

Section 3. KRS 248.360 is amended to read as follows:

No warehouseman shall directly or indirectly furnish to any person a vehicle used in the hauling of tobacco to any warehouse, nor shall any warehouseman finance, help to finance, or secure the financing of any means of conveyance for the hauling of tobacco to any particular warehouse. When requested by the grower, a warehouseman shall deduct actual hauling charges paid to an independent hauler from the proceeds of a tobacco sale.

[(1) No warehouse or warehouseman shall give a rebate of any part of the warehouse charges or commissions to any person as an inducement for the purpose of influencing the sale of tobacco on the warehouse floor and thereby discriminate against any grower, nor shall any warehouseman pay or offer anything of value directly or indirectly for the delivery of tobacco to any warehouse.

(2) No warehouseman shall extend to any customer any special privilege or service not extended all customers on like terms and considerations.

(3) No warehouseman shall furnish any means of conveyance as an inducement to any person to sell tobacco at any particular warehouse, nor shall any warehouseman finance, help to finance or secure the financing of any means of conveyance for the purpose of inducing the hauling of tobacco to any particular warehouse.]

Section 4. KRS 248.990 is amended to read as follows:

(1) Any tobacco warehouseman, agent, manager, corporation or organization that violates any of the provisions of KRS 248.320 to 248.340 or subsection (2) of KRS 248.350 shall be fined not less than twenty-five dollars ($25.00) nor more than one hundred dollars ($100), and, if a corporation, it shall forfeit all corporate rights and privileges.

(2) Any person who violates any of the provisions of [subsection (1) of] KRS [248.350, 248.360 or] 248.400 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500).

(3) Any person who violates any of the provisions of KRS 248.370, 248.390, 248.440 or wilfully violates a regulation of the department, or who refuses to pay the fee provided for by KRS 248.290 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for not more than three (3) months, or both.

(4) Any person who violates any of the provisions of KRS 248.410 or 248.420 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

(5) Any person who fails or refuses to post notices in accordance with subsection (1) of KRS 248.430 shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each day of failure or refusal.

(6) Any person who violates subsection (2) of KRS 248.430 shall be fined five hundred dollars ($500) for each offense.

(7) Any person who violates any of the provisions of subsection (1) of KRS 248.450 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) for each offense.

(8) Any person who violates any of the provisions of subsection (2) of KRS 248.450 shall be fined not less than fifty dollars ($50.00) nor more than one hundred dollars ($100) for each day of violation.

(9) Any person who violates KRS 248.610 shall be fined not less than $100 nor more than $1,000, or imprisoned in the county jail for not more than one year, or both.

(10) Any person who violates any of the provisions of KRS 248.360 or subsection (1) of KRS 248.350 shall for each offense be fined not less than fifteen hundred dollars ($1,500) nor more than three thousand dollars ($3,000), or be imprisoned for not less than three (3) months nor more than twelve (12) months, or both.

The Committee Amendment to **HB 406** is as follows:

Amend printed copy of **HB 406,** page 2, line 10, by deleting the words "or indirectly"

HR 21, A RESOLUTION supporting the "American Farm Movement."

WHEREAS, approximately one-third of the world's population is undernourished; and

WHEREAS, the health and welfare of our nation depend to a large degree on the American farmer; and

WHEREAS, the net farm income in Kentucky in 1976 was $4,200 per farm and the poverty level set by the federal government for a farm family of four persons is $4,980 in net annual income, meaning that many Kentucky farm families are living below a poverty level of existence; and

WHEREAS, the ratio of prices received by the American farmer to the prices he pays is about ninety percent, making farming unprofitable; and

WHEREAS, American farming is a high-risk occupation because of volatile fluctuations in the market; and

WHEREAS, farming in Kentucky accounts for an annual gross income of about $2,000,000,000; and

WHEREAS, it is imperative for the prosperity, and ultimately the survival, of the nation that the American farm economy be healthy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the "American Farm Movement" be supported wholeheartedly in its efforts to strengthen the American farm economy.

Section 2. That a copy of this resolution be sent to the President, to Kentucky's Congressional delegation, to the Secretary of the U.S. Department of Agriculture, and to the Kentucky Commissioner of Agriculture.

SB 68, AN ACT relating to rabies control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990, unless the context requires otherwise:

(1) "Dog" means any member of the canine family [, six (6) months of age or over];

(2) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(3) "Veterinarian" means a licensed practitioner of veterinary medicine [, accredited by the bureau of animal industry, United States department of agriculture];

(4) "Qualified person" means a person granted a permit by the secretary for human resources to vaccinate animals against rabies [;] and may include owners or operators of licensed kennels;

(5) "Vaccination" means the injection by a veterinarian or other qualified person of vaccine approved by, and administered in accordance with the regulations of the secretary for human resources.

Section 2. KRS 258.015 is amended to read as follows:

Every [On or before the first of July, 1954 and of each year thereafter, every] owner shall have his dog *initially* vaccinated *by the age of four (4) months and re-vaccinated* against rabies *at the expiration of the immunization period as certified by the veterinarian.* The veterinarian or qualified person who vaccinates a dog shall issue to the owner thereof a vaccination certificate on a form prescribed and supplied by the department for human resources. The vaccination certificate shall be prepared and issued in triplicate, one (1) copy to be retained by the issuing veterinarian or other qualified person, one (1) copy to be given to the owner of the dog vaccinated, and one (1) copy to be forwarded by the veterinarian or qualified person to the local health department, or, if none is maintained, to the state department of health. Each certificate shall bear the name and address of the veterinarian or qualified person who issued it [and a serial number]. The veterinarian or qualified person shall also furnish each owner with a metal tag bearing *a serial* [the certificate] number and *after January 1, 1980* the year of *expiration of the immunization period* [vaccination]. The tag may bear the name of the veterinarian or qualified person issuing it. It shall be affixed by the owner to a collar or harness furnished by him and shall be worn by the dog for which the certificate was issued. No one except the owner or his duly authorized agent shall remove the collar with the attached tag from the dog. *Prior to their initial officially recorded vaccination against rabies all dogs shall be confined to the premises of the owner.*

Section 3. KRS 258.025 is amended to read as follows:

The secretary for human resources, in his sound discretion may by such rules and regulations as he deems advisable:

(1) Exempt from the provisions of KRS 258.015 the owners of dogs in any county or counties in which the incidence of rabies decreases sufficiently to warrant this action;

[(2) Extend the period required for re-vaccination if a vaccine is developed which will give longer periods of immunity;]

(2) [(3)] Exempt from the provisions of KRS 258.015 the owners of dogs which are brought into this state for a period not to exceed thirty (30) days.

SECTION 4. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a local board of health determines or is notified by the department for human resources that the rabies immunization level among dogs is low in the county or any portion thereof, the local health department shall sponsor mass immunization clinics at strategic locations and intervals throughout the area designated. The local health department shall contract with local veterinarians to administer the vaccine; provided, however, that if the services of such veterinarians are not available in the area the local health department may contract with other veterinarians or qualified persons designated by the department for human resources. A reasonable fee designated by the local board of health may be collected from each owner to help defray the cost of the clinic program.

(2) Vaccination and licensing procedures may be jointly conducted at such clinics.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he elects to have his dog vaccinated privately by a veterinarian of his choice.

Section 5. KRS 258.085 is amended to read as follows:

A health officer or his agent shall have the authority to quarantine for a period not to exceed *one hundred eighty (180)* [ninety (90)] days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed *ten (10)* [fourteen (14)] days any animal which has bitten a human being or which exhibits symptoms of rabies. An animal so quarantined may be confined by the health officer at a designated place at the owner's expense. Whenever a dog dies with rabies or is suspected of having died with rabies or is destroyed because of having been suspected of being rabid, the owner thereof, whether the dog had been previously quarantined or not, shall at his own expense send the head of such dog to a laboratory approved by the secretary for human resources in the manner prescribed by the rules and regulations of the secretary for human resources.

SECTION 6. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

Any city legislative body or fiscal court may, by the adoption of an appropriate ordinance or resolution, provide for more stringent regulation of rabies control in dogs, cats, and other animals than set forth in this chapter.

Section 7. KRS 258.045 is repealed.

The Committee Amendment to **SB 68** is as follows:

Amend printed copy of **SB 68,** page 4, line 12, after the word "fee" by adding the following words: ", not to exceed three dollars ($3.00),"

SB 84, AN ACT relating to dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.275 is amended to read as follows:

(1) Any owner or keeper of a dog which has killed or injured livestock or poultry or which has bitten such livestock or poultry so severely as to necessitate its destruction, or injured or damaged any person or property, shall be liable to the owner of such livestock or poultry, or person in a civil action for all damages and costs, or to the commonwealth.

(2) Whenever any person sustains any loss or damage to any livestock or poultry by dogs, or any livestock or poultry of any person is necessarily destroyed because of having been bitten by a dog, except when such loss, destruction or damage shall have been caused by a dog harbored by the owner of such livestock or poultry, such person or his agent or attorney may, *within seventy-two (72) hours* [immediately] after the damage is done, complain to a duly authorized agent of the department. Such complaint shall be in writing, shall be signed by the person making such complaint, and shall state when, where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of such complaint, the agent of the department shall at once examine the place where the alleged loss or damage was sustained and the livestock or poultry injured or killed, and shall examine under oath or affirmation, any witnesses called before him. After making diligent inquiry in relation to such claim, such agent, acting as appraiser, shall determine whether any damage has been sustained and the amount thereof and, if possible, who was the owner of the dog or dogs by which such damage was done. If the owner does not agree as to the amount of damage allowed by the appraiser, the owner and appraiser may appoint a disinterested citizen to assist in determining the amount of damages sustained. For such services, the said disinterested citizen shall receive two dollars ($2.00) and mileage at seven cents (7¢) per mile for the distance traveled, which shall be paid by the owner and considered as part of the costs in such claim.

(3) In addition to the claims for damages provided in subsection (2) of this section, whenever any person sustains any loss or damage to his or her person or property as a result of being bitten by a dog, such person shall make complaint in writing to a duly authorized agent of the department stating when, where, and how much damage was done, and by whose dog or dogs, if known. Upon receipt of such complaint said agent shall investigate and ascertain the extent of the claim, and if approved, make an appraisal of the damages. If any person sustaining a loss does not agree to amount of damages allowed by the appraiser, the person making claim and the appraiser, may appoint a disinterested person to assist in determining the amount of damages sustained. No payment made out of the livestock fund for claims under this section shall exceed one hundred dollars ($100), and no payment shall be made until claimant shall certify that no payment was made by owner of dog or dogs doing injury.

SB 101, AN ACT relating to purebred cattle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Department" means the department of agriculture.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Purebred" means registered by the appropriate association, organization or authority.

(d) Neither "show" nor "exhibition" nor "show, exhibition and sale" shall include those held as a part of or in connection with any county or other local fair.

(2) The department shall aid, encourage, foster and promote the development and the improvement of the purebred cattle industry in Kentucky. To that end, the department shall promote, aid and assist in the promotion of annual shows and sales of purebred cattle in Kentucky with the object and purpose of establishing Kentucky as one of the greatest centers in the United States for the breeding, producing, raising, exhibition, showing and sale of purebred cattle. The general assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.

(3) From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000) shall be used and applied in each fiscal year in each of the following events: Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen-Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolaise, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, [and] purebred Brown Swiss, *purebred Santa Gertrudis, and purebred Beefalo* show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the commissioner may determine.

(4) Any show, exhibition and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class is equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all of the states of the United States, and the Dominion of Canada may be included. The commissioner shall determine with respect to each of the breeds of cattle which show, exhibition and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions and sales which have been held in Kentucky in any previous year and in any previous two-year period.

(5) The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows, to-wit: At least five thousand dollars ($5,000) shall be used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the commissioner may determine.

(6) No show or exhibition and no show, exhibition and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section unless and until there is provided and made available from other sources an amount for premiums equal to or in excess of the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition and sale, or unless there is provided and made available from some other source an amount for premiums equal to or in excess of the amount which the commissioner may allocate to or for the show or exhibition or show, exhibition and sale under the authority vested in him by this section.

The Committee on Appropriations and Revenue reported **HB 234,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Amendment No. 1 to **HB 234** is as follows:

Amend printed copy of **HB 234,** page 2, by deleting lines 14 through 18 in their entirety;

and no page 3, by deleting lines 2 through 6 in their entirety;

and on page 5, by deleting lines 6 through 10 in their entirety;

and on page 11, by deleting lines 11 through 15 in their entirety;

and on page 15, by deleting lines 12 through 16 in their entirety;

and on page 16, by deleting lines 22 through 26 in their entirely;

and on page 18, by deleting lines 3 through 7 in their entirety;

and on page 19, by deleting lines 4 through 8 in their entirely.

The Committee Amendment No. 2 to **HB 234** is as follows:

Amend printed copy of **HB 234,** page 3, line 16, by deleting under the "Fine" column the figure "*16*" and the brackets before and after the figure "1";

line 17, by deleting under the "Fine" column the figure "*17*" and the brackets before and after the figure "2";

line 18, by deleting under the "Fine" column the figure "*18*" and the brackets before and after the figure"3";

line 19, by deleting under the "Fine" column the figure "*19*" and the brackets before and after the figure "4"; and

line 20, by deleting under the "Fine" column the figure "*(20)*" and the brackets before and after the figure "5".

The Committee Amendment No. 3 to **HB 234** is as follows:

Amend printed copy of **HB 234,** page 12, by deleting lines 22 to 25 in their entirety and inserting in their place the following:

(8) Any person who violates any of the provisions of subsection (1) of KRS 189.645 shall be fined not less than $1.00 nor more than $100. Any person who violates any of the provisions of subsection (4) of KRS 189.730 shall be fined not less than $16.00 nor more than $100.

The Committee on Appropriations and Revenue reported **SB 117** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 117, AN ACT relating to income taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:
Any casualty loss occurring after December 31, 1976, and allowable under Section 165 (c) of the internal revenue code, shall be deducted by an individual from adjusted gross income for the year in which the loss occurred, or, in the case of disaster losses allowable under Section 165 (h) of the internal revenue code, may be deducted for the taxable year immediately preceding the taxable year in which the disaster occurred. Notwithstanding KRS 141.010 (11), any such remaining casualty or disaster loss may be carried forward and deducted from adjusted gross income in succeeding years until it has been fully deducted.

Section 2. This Act shall be effective for taxable years ending after December 31, 1976.

Section 3. Whereas many Kentuckians have suffered losses from the floods of last spring and this bill would provide some immediate relief to them in the form of tax refunds, an emergency is declared to exist and this Act shall become effective upon passage and approval by the Governor.

The Committee on Cities repored **HB 111,** with Committee Amendment attached thereto, and **HB 242** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 111, AN ACT relating to landlord and tenant relationships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 383.695 is amended to read as follows:
(1) The landlord or the tenant may terminate a week-to-week tenancy by a written notice given to the other at least seven (7) days before the termination date specified in the notice.
(2) The landlord or the tenant may terminate a month-to-month tenancy by a written notice given to the other at least thirty (30) days before the periodic rental date specified in the notice.
(3) The landlord or the tenant may terminate a tenancy begun upon the termination of a written lease by written notice given to the other at least ten (10) days before the termination date specified in the notice, except that if the tenant fails to pay rent within ten (10) days after the day it becomes due, the landlord may terminate the tenancy at any time without notice.

(4) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and if the tenant's holdover is willful and not in good faith the landlord may also recover an amount not more than three (3) months' periodic rent or threefold the actual damages sustained by him, whichever is greater, and reasonable attorney's fees. If the landlord consents to the tenant's continued occupancy, KRS 383.565(3) applies.

(5) Notwithstanding KRS 383.715 to the contrary, the provisions of subsections (1) and (2) of this section apply to, regulate and determine rights, obligations and remedies under a rental agreement wherever made, for a dwelling unit located within this state.

The Committee Amendment to **HB 111** is as follows:

Amend printed copy of **HB 111,** page 2, line 8, after the word "provisions" insert the following: "of subsections 1 and 2"

HB 242, AN ACT relating to municipal utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.176 is amended to read as follows:

(1) Upon and after a board has been appointed and qualified, the said board shall have charge of the exclusive supervision, management and control of the operation, maintenance and extension of the electric and water plant.

(2) All powers of the municipality to operate, maintain, improve and extend, and to furnish electric and water service, shall be exercised on behalf of the municipality by the board. The board shall employ all employes, fix their duties and compensation, and shall determine programs and make all determinations as to the operation, maintenance, improvement and extension of the electric and water plant, shall determine and fix the rates to be charged for the classes of service rendered, shall determine all financial practices, shall establish rules and regulations such as it deems necessary or appropriate to govern the operation of the plant and the furnishing of electric and water service, and shall collect all moneys from the operation, maintenance, improvement and extension of the electric and water plant and the furnishing of electric and water service and disburse same in the manner and for the purposes hereinafter provided.

(3) The board in the operation of such system may, in its discretion, engage the services of a professional engineer, qualified by education, training and experience in the operation, maintenance, improvement and extension of electric and water systems, as supervising engineer, upon terms and conditions of service such as may be satisfactory to the board. The employment of any such engineer shall be by written contract, which shall specify the services to be rendered by such person, and the compensation to be paid. Any such contract may be terminated upon sixty (60) days' notice by either party. The board may, in its discretion, require of such person so engaged a bond, in a sum to be determined and approved by the board, conditioned upon his faithful performance of the services to be rendered by him under and by virtue of such employment. A copy of any such contract shall be filed in the office of the city clerk.

(4) A copy of the schedule of the current rates and charges in effect from time to time, and a copy of all rules and regulations of the board relating to electric and water service shall be kept on public file at the main and all branch offices of the electric and water plant board and also in the office of the municipal clerk.

(5) All contracts shall be let by the board, and all contracts for the purchase of materials, equipment and supplies in excess of *five thousand dollars ($5,000)* [one thousand dollars ($1,000)] shall be let only after competitive bidding; Provided, however, when any materials, equipment or supplies be not available in the open market, such materials, equipment and supplies may be purchased without competitive bidding. All contracts shall be in the corporate name of the board, and shall be signed by the chairman or vice chairman of the board, and attested by the secretary or treasurer of the board. The board shall make and keep or cause to be made and kept full and proper books and records.

The Committee on Elections and Constitutional Amendments reported **HB 135,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

AN ACT relating to absentee voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

(1) Any qualified voter in any county who *will* [expects to] be absent from the county on any election day or any person incarcerated in jail that has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. The application form shall be in the form prescribed by the state board of elections and shall contain the following information: name, *residential* address, precinct, party affiliation, statement of [expected] absence on election day, *statement of compliance with residency requirements for voting in said precinct,* and *the voter's* mailing address for a special ballot. The form shall be [verified and] signed by the voter *and properly notarized. A notice of the penalty for perjury shall be printed on the application form.*

(2) If the county clerk finds that the voter is properly registered as stated in his application, he shall immediately mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The outer envelope shall provide space for the voter's signature, voting address, [and] precinct number, *notary's attestation, and notice of penalty for perjury.* The clerk shall type the voter's address and precinct number in the upper left hand corner of the absent voter's outer envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application until thirty (30) days after the election.

(3) A list of persons to whom absent ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day *and shall be posted at the polling place throughout the voting hours on election day.*

(4) Any person who has been mailed an absent voter's ballot but who shall be in his voting precinct on election day may cancel his absent ballot and vote in person if he appears at the county clerk's office on a day prior to election day and returns his absent ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absent ballots, and the voter may vote in the precinct in which he is properly registered. [No person who has been mailed an absent voter's ballot shall be allowed to vote at the precinct on election day.]

Section 2. KRS 117.325 is amended to read as follows:

(1) *After receipt of his absentee voting supplies, the voter shall show the unmarked ballot to the attesting official, mark his ballot in secret, seal it in the inner envelope and then in the outer envelope. Then, in the presence of the attesting official, the voter shall swear to and sign the affidavit on the absent ballot envelope. A notary shall attest that the ballot was unmarked when presented to him, that the voter marked the ballot unassisted in private and placed the ballot in an envelope which was promptly sealed and that the affiant was not solicted or advised to vote for or against any candidate. The absent ballot* [The absent voter shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk. The absent voter shall sign the outer envelope in order to validate the absent ballot. It] shall be received by the clerk before 3:00 p.m. standard time on election day in order to be counted.

(2) The clerk shall deposit all of the returned ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot county board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted.

(3) The clerk shall keep a list of all persons who return their voted absentee ballots, and send a copy of that list to the state board after election day.

Section 3. KRS 117.335 is amended to read as follows:

(1) The challenge of an absent voter's ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of absent voters' ballots. The board shall open the boxes containing absent voters' ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope is in proper order and has been signed by the absent voter *and notarized. Absentee ballots that are not notarized and* all unsigned absentee ballots shall be rejected automatically. The clerk shall compare the signature on the outer

envelope with the signature of the voter that appears on the registration card. If the outer envelope is found to be in order the clerk shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the clerk shall then open the envelope and remove the inner envelope and place it unopened in a ballot box which has been provided for the purpose.

(4) When the name of an absent voter is read aloud by the clerk, the vote of such voter may be challenged and the challenge thereto may be determined and the absentee vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope is regular, and substantially complies with the provisions of this chapter, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the clerk shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the absentee ballots from the inner envelopes and count the absentee ballots on a form provided by the state board.

(6) The county clerk shall retain the ballots and the outer envelopes for thirty (30) days, at which time they shall be burned by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

The Committee Substitute to **HB 135** is as follows:

HB 135, AN ACT relating to absentee voting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

(1) Any qualified voter in any county who *will* [expects to] be absent from the county on any election day or any person incarcerated in jail that has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot, *except that such application shall be restricted to the use of the voter or the voter's spouse. The clerk shall type the name of the absent voter on the application form for that person's use and no other.* The application form shall be in the form prescribed by the state board of elections, *shall bear the seal of the county court clerk* and shall contain the following information: name, *residential* address, precinct, party affiliation, statement of [expected] absence on election day, *statement of compliance with residency requirements for voting in said precinct,* and *the voter's* mailing address for *a* special ballot. The form shall be verified and signed by the voter. *A notice of the penalty provided in KRS 117.995(4) shall be printed on the application.*

(2) If the county clerk finds that the voter is properly registered as stated in his application, he shall immediately mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The outer envelope *shall bear the words "Absent Voter's Ballot" and the address and official title of the county court clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope* shall provide space for the voter's signature, voting address, [and] precinct number *and notice of penalty provided in KRS 117.995(4).* The clerk shall type the voter's address and precinct number in the upper left hand corner of the absent voter's outer envelope *and of the detachable flap on the inner envelope* immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application until thirty (30) days after the election.

(3) A list of persons to whom absent ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day *and shall be posted at the polling place throughout the voting hours on election day.*

(4) Any person who has been mailed an absent voter's ballot but who shall be in his voting precinct on election day may cancel his absent ballot and vote in person if he appears at the county clerk's office at least seven days prior to election day and returns his absent ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absent ballots, and the voter may vote in the precinct in which he is properly registered. [No person who has been mailed an absent voter's ballot shall be allowed to vote at the precinct on election day.]

Section 2. KRS 117.325 is amended to read as follows:

(1) The absent voter shall mark his ballot, seal it in the inner envelope and then in the outer envelope and mail it to the county clerk. The absent voter shall sign the *detachable flap and the* outer envelope in order to validate the absent ballot. It shall be received by the clerk before 3:00 p.m. standard time on election day in order to be counted.

(2) The clerk shall deposit all of the returned ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot county board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted.

(3) The clerk shall keep a list of all persons who return their voted absentee ballots, and send a copy of that list to the state board after election day. *The county clerk and the secretary of state shall keep a record of the number of absentee ballots cast in any election as a part of the official returns of the election.*

Section 3. KRS 117.335 is amended to read as follows:

(1) The challenge of an absent voter's ballot must be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of which shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day the board may meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of absent voters' ballots. The board shall open the boxes containing absent voters' ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope *and the detachable flap are* [is] in proper order and *have* [has] been signed by the absent voter. All unsigned absentee ballots shall be rejected automatically. The clerk shall compare the signature*s* on the outer envelope *and the detachable flap* with the signature of the voter that appears on the registration card. If the outer envelope *and the detachable flap are* [is] found to be in order the clerk shall read aloud the name of the absent voter. If the vote of such voter is not rejected on a challenge then made as provided in subsection (4), the clerk shall then open the *outer* envelope and remove the inner envelope, *remove the detachable flap* and place *the inner envelope* [it] unopened in a ballot box which has been provided for the purpose.

(4) When the name of an absent voter is read aloud by the clerk, the vote of such voter may be challenged and the challenge thereto may be determined and the absentee vote accepted or rejected by the board as if the voter was present and voting in person, but if the outer envelope *and the detachable flap are* [is] regular, and substantially *comply* [complies] with the provisions of this chapter, they shall be considered as showing that the absent voter is prima facie entitled to vote. If the vote of an absent voter is rejected pursuant to the challenge, the outer envelope shall not be opened, and the clerk shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken so as to redistribute the ballots in the box. The board shall then open the ballot box, remove the absentee ballots from the inner envelopes and count the absentee ballots on a form provided by the state board.

(6) The county clerk shall retain the ballots, *detachable flaps* and the outer envelopes for thirty (30) days, at which time they shall be burned by the county board of elections. If a contest or recount proceeding is instituted during said thirty-day period, the ballots shall not be burned but shall be disposed of as directed by the court in which such proceeding was instituted.

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

Section 4. KRS 117.995 is amended to read as follows:

(1) Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(2) Any county clerk, member of the county board of elections or any election officer who willfully violates any of the provisions of this chapter shall be confined in the penitentiary for not less than one (1) nor more than three (3) years.

(3) Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or special ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and

in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months.

(4) Any person who signs a name other than his own on an application for an absentee ballot or on the verification form for an absentee ballot, or any person who votes an absentee ballot other than the one issued in his name, or any person who applies for an absentee ballot for the use of anyone other than himself or his spouse, or any person who makes a false statement on an application for an absentee ballot shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than one (1) year, or both.

The Committee on Health and Welfare reported **HB 98** with Committee Substitute attached thereto, **HB 102** with Committee Substitute attached thereto, **HB 179**, **HB 186** with Committee Amendment attached thereto, and **SB 58** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 98, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources.

(2) "Department" means the department for human resources.

(3) "Bureau" means the bureau for social services.

(4) "Child" means any person who has not reached his eighteenth birthday.

(5) "Dependent child" means any child who is under improper care, control, or guardianship that is not due to the negligence of the parent or guardian, provided that the child is not an abused or neglected child.

(6) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or [any] other person *who has the permanent or temporary care, custody or responsibility for the supervision of the child*: inflicts or allows to be inflicted upon the child, physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse upon the child; willfully abandons or exploits such child; does not provide the child with adequate care and supervision; food, clothing and shelter; education; or medical care necessary for the child's well-being; Provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This exception, however, shall not preclude a court from ordering that medical services be provided to the child, where his health requires its. his parents or guardian is in destitute circumstances.

(7) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(8) "Child-placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption.

(9) "Child welfare worker" means an employe of the department designated as such by the commissioner or social worker employed by a county or city who has been approved by the department to handle, under its supervision, services to children.

(10) "Boarding home or foster parent" as used in subsection (4) of KRS 199.600 means persons who board children held in custody by the department.

(11) "Foster family home" means a private home in which children are placed for foster family care under supervision of the department or of a licensed child-placing agency.

(12) "Group home" means a homelike facility for not more than eight foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(13) "Institution" means a child-caring facility providing care or maintenance for nine or more children.

Section 2. KRS 199.335 is amended to read as follows:

(1) The purpose of this section, sections 530.060, 530.070, subsections (4)and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect [by any person]; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports.

(2) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report to be made in accordance with the provisions of this section. Nothing in this section is intended to relieve individuals of their obligation to report.

(3) A report shall be made immediately by telephone or otherwise to the bureau or its delegated representative. The report shall be followed by a written report within forty-eight (48) hours if so requested by the bureau. The bureau or its delegated representative shall immediately send a *report* [copy of all reports] of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such *report* [reports] shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's abuse or neglect (including any evidence of previous abuse or neglect) to this child or his siblings; the name and address of the person responsible for the abuse or neglect; and any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section. The bureau may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the bureau to fulfill its responsibilities under this section.

(4) *A search warrant may be issued upon a showing of probable cause that a child is being abused or neglected.* [The fact that a report as provided in this section has been received is sufficient grounds for issuance of a search warrant, and] If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

(5) In a proceeding before the juvenile court to have a child removed from his home and placed in the custody of the bureau or the court, substantial evidence that the child is an abused or neglected child shall make a prima facie case for removal of the child even though it is not proved conclusively who has perpetrated the abuse or who has caused the neglect.

(6) Anyone acting upon reasonable cause in the making of a report pursuant to this section, sections 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) *and* [,] (5) [and (6)] of KRS 208.990 shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report.

(7) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client privilege, shall be a ground for *refusing to report under this section or for* excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section.

(8) Upon receipt of a report of an abused or neglected child pursuant to this section, the bureau as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child, preventing further abuse or neglect of the child or any other child under the same care, preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(9) All information obtained by the bureau staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to any one except: (a) persons suspected of neglect or abuse, provided that in such cases names of informants may be withheld, unless ordered by the court; (b) persons within the bureau with a legitimate interest or responsibility related to the case; (c) other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case; (d) cases where a court orders release of such information.

(10) As a result of any report of suspected child abuse or neglect as defined in KRS 199.011(6) photographs and x-rays may be taken or caused to be taken, without the consent of the parent or other person responsible for the child, as a part of the medical evaluation or investigation of such reports. Such photographs and x-rays may be introduced into evidence in any subsequent judicial proceedings. The person taking such photographs or x-rays shall be immune from criminal or civil liability.

Section 3. KRS 199.341 is amended to read as follows:

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I
Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II
Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employe thereof; a subdivision of a party state, or officer or employe thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III
Conditions for Placement

(a) No sending *agency* [state] shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV
Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V
Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI
Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII
Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII
Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX
Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the states affected as to all severable matters.

Section 4. KRS 199.370 is amended to read as follows:

(1) The provisions of KRS 199.350 shall not apply to a *parent, step-parent, grandparent, adult brother or sister, or adult uncle or aunt* [relative] going to any other state *or country* and bringing a child into this state for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible [state] agency of the other state *or country, or under special circumstances agreed to in writing by the department and the persons wishing to import a child.*

(2) The provisions of KRS 199.350 shall not apply to placements made pursuant to the interstate compact on the placement of children.

Section 5. KRS 199.460 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the department, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 199.350 to 199.370 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected *or abused*, abandoned or in danger of becoming delinquent;

(2) Cooperate with and assist the juvenile courts of the various counties;

(3) Assist circuit courts through services to children whenever requested by the court; and

(4) Perform such other services as may be deemed necessary for the welfare of children.

Section 6. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The child welfare worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case reasons for the child welfare worker's recommendation shall be given in writing. The recommendation of the child welfare worker shall then be reviewed by the secretary. Based on the report and recommendation of the child welfare worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty days after the receipt of the application. In reaching his decision the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological and psychiatric standpoint. If the application is refused the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) In any case where the department refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten days after notice of refusal, the natural or proposed adopting parent or parents shall appeal to the circuit court of the county in which the adoption is proposed, provided however that no placement shall be disapproved on the basis of the religious, ethnic, racial or inter-faith background of the adoptive applicant, if such placement is made with the consent of the parent. The department shall be made a party defendant to the appeal. In the hearing of an appeal the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

(3) No person, association or organization, other than the department or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or

otherwise; except in the home of a stepparent, grandparent, sister, brother, aunt or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the department for human resources in carrying out its aid to dependent children program in accordance with KRS Chapter 205.

(4) In the event a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or in the event permission to receive a child has been denied, a representative of the department may petition the juvenile court of the county in which the child is found setting out the facts concerning the child. When such petition has been filed, the juvenile court shall take jurisdiction of the child and shall provide for it as it would provide for a *dependent* [needy], neglected or *abused* [dependent] child under KRS 208.020 except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or such action is ordered by a circuit court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) Nothing in this statute shall be construed to limit the authority of the department or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile court or the circuit court, prior to the filing of an application to place or receive.

Section 7. KRS 199.470 is amended to read as follows:

(1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the circuit court of the county in which the petitioner resides.

(2) If the petitioner is married, the husband or wife must join in a petition for leave to adopt a child unless the petitioner is married to a natural parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, such requirement may be waived.

(3) No petition for the adoption of any child under the age of sixteen (16) shall be filed until after the child has lived continuously in the home of the petitioner for at least three (3) months immediately prior to the filing of the petition unless the child has been placed for adoption by the department or an agency licensed to place children for adoption by the department. In the case of a child placed for adoption by the department or an agency licensed by the department, the petition may be filed at the time of placement. *No child placed by the department or a licensed child-placing agency shall be considered placed for the purpose of adoption unless or until the prospective adoptive parents have been notified in writing by the department or agency that the child has been placed with them for the purpose of adoption.*

(4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a licensed child-placing institution or agency or by the department, or the child has been placed with written approval of the secretary; but no such approval shall be necessary in the case of:

(a) A child sought to be adopted by a stepparent, grandparent, sister, brother, aunt or uncle;

(b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary.

(5) Subsection (4) of this section shall not apply to those children placed for adoption prior to June 14, 1962.

Section 8. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a legitimate child or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged incompetent and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.600 to 199.630; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.600 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (2) of KRS 199.600 exist with respect to such child.

(5) In no case shall an adoption be granted or a consent for adoption be held valid if such consent for adoption is given prior to the fifth day after the birth of the child.

SECTION 9. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) A petition for the voluntary termination of parental rights may be filed by a parent.

(2) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

(3) The circuit court shall have jurisdiction of proceedings under this chapter to terminate parental rights. A petition for voluntary termination of parental rights may be filed in any circuit court of the Commonwealth.

(4) The petition for the voluntary termination of parental rights under this Act shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex and date of birth of the child;

(c) Relationship of each petitioner to the child;

(d) Reasons for desiring the termination of parental rights;

(e) Name and address of the person or of the department or authorized agency to which parental rights are sought to be transferred.

A statement that the person, department or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child shall be filed with the petition.

(5) When a petition for the voluntary termination of parental rights is filed, the court shall set a date for a hearing thereon. The court shall require notice to be served upon the department for human resources in any case where a statement from the department of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the department or a licensed agency.

(6) All hearings shall be held before the court, privately for the purpose of determining the facts.

(7) The best interest of the child shall be considered paramount.

(8) At the time of the hearing, the court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) If the court determines that all parties with parental rights to the child under the law have either petitioned the court to have their parental rights terminated voluntarily or have had their rights terminated involuntarily by an order entered by a court of competent jurisdiction, and that the termination of parental rights and their transfer are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of this Act, it shall make an order terminating all parental rights and obligations in the parent in whom they have existed, and releasing the child from all legal obligations to his parents, and transferring such parental rights to some other person or authorized agency or department as may, in the opinion of the court, be best qualified to receive them, except that the child shall retain the right to inherit from its parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the department, or authorized agency to consent to the adoption of such child.

(2) Any order entered under this Act shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination.

SECTION 11. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) In a proceeding involving a dependent, neglected or abused child, as defined in KRS 199.011, the circuit court shall terminate all parental rights of the parent of such child, and declare the child to be a ward of the state, and vest the care, custody and control of the child in the department, or in any licensed child-caring or child-placing agency or institution, if facilities are available to receive the child, if it is pleaded and proved in a private hearing that the termination is in the best interest of the child based on the existence of one (1) or both of the following conditions:

(a) The child has been abandoned; or

(b) The child has been neglected or abused.

(2) In the case of conditions described in subsection (1)(a) or (b), no finding by the court is necessary that the abandonment, neglect or abuse was intentional if in fact the abandonment, neglect or abuse occurred.

(3) Factors to be considered by the court in determining abandonment, neglect, or abuse shall include:

(a) Emotional illness, mental illness, or mental deficiency of the parent rendering the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) Repeated or continuous failure by the parents to provide the child with adequate food, clothing, shelter, and education as defined by law, or other care and control necessary for his physical, mental, or emotional health and development;

(d) The services provided or offered to the parent to facilitate a reunion;

(e) The effort the parent has made to adjust his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home in the forseeable future;

(f) The extent to which the parent has maintained regular visitation or other contact with the child as part of a plan to reunite the child with the parent;

(g) The payment of a reasonable portion of substitute physical care and maintenance if financially able to do so;

(h) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time.

(4) If the circumstances described in subsection (1), (2), or (3) of this section exist with respect to only one (1) of the two (2) parents, the parental rights of that parent may be terminated, in which case the child shall not be declared to be a ward of the state, unless with the voluntary consent of the other parent, or if one (1) of the two (2) parents has wilfully, substantially, and continuously refused for a period of at least one (1) year to give or pay any support, the parental rights of that parent may be terminated immediately by order of the court, in which case the child shall not be declared a ward of the state, unless with the voluntary consent of the other parent.

(5) In the event the infant is made party defendant to the action, the boarding home or foster parent shall not be served with summons notwithstanding provisions of CR 4.04 (2).

(6) The court may be convened at any time wherever the judge thereof may be found within the district, irrespective of the regular term for the purpose of terminating parental rights under this section, and shall complete the same as soon as possible.

(7) Proceedings under this Act may be instituted upon petition by the department, any child-placing agency licensed by the department, any probation officer, any state or local law enforcement officer, any county or commonwealth's attorney or parent.

(8) In the event a parent who is a defendant in an action for involuntary termination of parental rights is for financial reasons unable to obtain legal representation, the court shall appoint an attorney for such person if defendant requests counsel. The court shall appoint counsel for any defendant under this statute if in the opinion of the court justice will be served. Unless the attorney appointed receives a salary or fee from another source, he shall be paid a reasonable fee for his services which shall be taxed as costs not to exceed three hundred dollars ($300).

(9) Unless one (1) or both parents object thereto in writing within ten (10) days after an abortion results in a live birth, the live born person shall become an abandoned ward of the state and the mother and father of such person shall have no parental rights or obligations whatsoever as relates to the abandoned child, the same as if parental rights had been terminated pursuant to the provisions of the KRS Chapter 199.

SECTION 12. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The father of a child born out-of-wedlock shall be made a party and brought before the court in the same manner as any other party to a termination action if one of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit; or

(b) Prior to the entry of a final order in any of the above proceedings, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within thirty (30) days after birth of the child; or

(c) He has caused his name to be affixed to the birth certificate of the child; or

(d) He has commenced a judicial proceeding claiming parental right; or

(e) He has contributed financially to the support of the child either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or is openly living with the child or the person designated on the birth certificate as the natural mother of said child.

(2) Service under this Act shall be accomplished by personal service where possible or constructive service where personal service is not possible, all of which is to be done pursuant to the Kentucky Rules of Civil Procedure.

(3) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and has been filed with the petition for involuntary termination of parental rights, or an order terminating parental rights has been entered by a court of competent jurisdiction.

(4) No petition may be filed under this Act prior to five (5) days after the birth of the child.

SECTION 13. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court shall have jurisdiction of proceedings under this chapter to terminate parental rights. A petition for involuntary termination of parental rights may be filed in the circuit court for any of the counties in the following order of priority:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court action concerning the child, if any, has commenced;

(c) The county in which the child involved resides or is present.

(2) The petition for involuntary termination of parental rights under this Act shall be verified and contain the following:

(a) Name and identity of each petitioner;

(b) Name, sex, and date of birth of the child;

(c) Name and address of the parents of the child;

(d) Grounds for the termination of parental rights;

(e) Name and identity of the person or the authorized agency to which custody is sought to be transferred;

(f) Statement that the agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(g) Other information concerning termination or disclaimers of parenthood.

SECTION 14. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Any order terminating the parental rights of any person under the provisions of this Act, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the department upon request if the department is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(2) Where parental rights have been terminated pursuant to this Act all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from its parents under the laws of descent and distribution until the child is adopted.

SECTION 15. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

Any order entered under this Act shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment, decree, or order of the circuit court in accordance with the Kentucky Rules of Civil Procedure and Kentucky Rules of Appellate Procedure.

Section 16. KRS 208.080 is amended to read as follows:

(1) After a petition has been filed and after such further investigation as the court may direct, unless the parties appear voluntarily, the court shall issue a summons briefly reciting the substance of the petition and requiring the person who has the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(2) If it appears to the court, by affidavit or by sworn testimony, [at the time the summons is issued,] that the child is in such condition or surroundings that *he is being harmed or threatened with harm to such a degree that his best interest* [his welfare] requires that his custody be immediately assumed by the court, the judge may *sign an order giving temporary custody of the child to the court. As a part of such order, the court may request that the child shall be picked up by the peace officer serving the summons or by any other peace officer and placed as directed by the court. In any event, a copy of the temporary custody order shall be served on the parent, guardian or custodian of the child when the summons is served. The temporary custody order shall be effective until the case is heard on its merits, or until modified by the court. As a result of such* order, [by indorsement on the summons, that the officer serving the summons shall at once take the child into custody. In such cases,] the child shall be placed in *custody and care in a family home or other suitable facility* [the detention facility] provided for under KRS 208.130, or in a facility operated by the department if the department is willing to receive the child or in a facility operated by a licensed child-caring institution or agency, and held therein pending further disposition by the court.

Section 17. KRS 199.600, 199.610, 199.620 and 199.630 are repealed.

The Committee Substitute to **HB 98** is as follows:

HB 98, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources.

(2) "Department" means the department for human resources.

(3) "Bureau" means the bureau for social services.

(4) "Child" means any person who has not reached his eighteenth birthday.

(5) "Dependent child" means any child who is under improper care, control, or guardianship that is not due to the negligence of the parent or guardian, provided that the child is not an abused or neglected child.

(6) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or [any] other person *who has the permanent or temporary care, custody or responsibility for the supervision of the child*: inflicts or allows to be inflicted upon the child, physical or mental injury to the child by other than accidental means; creates or allows to be created a risk of physical or mental injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse upon the child; willfully abandons or exploits such child; does not provide the child with adequate care and supervision; food, clothing and shelter; [education;] or medical care necessary for the child's well-being; Provided, however, that a parent or guardian legitimately practicing his religious beliefs who thereby does not provide specified medical treatment for a child, for that reason alone shall not be considered a negligent parent or guardian. This exception, however, shall not preclude a court from ordering that medical services be provided to the child, where his health requires its. his parents or guardian is in destitute circumstances.

(7) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(8) "Child-placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption.

(9) "Child welfare worker" means an employe of the department designated as such by the commissioner or social worker employed by a county or city who has been approved by the department to handle, under its supervision, services to children.

(10) "Boarding home or foster parent" as used in subsection (4) of KRS 199.600 means persons who board children held in custody by the department.

(11) "Foster family home" means a private home in which children are placed for foster family care under supervision of the department or of a licensed child-placing agency.

(12) "Group home" means a homelike facility for not more than eight foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(13) "Institution" means a child-caring facility providing care or maintenance for nine or more children.

Section 2. KRS 199.335 is amended to read as follows:

(1) The purpose of this section, sections 530.060, 530.070, subsections (4)and (5) of KRS 208.020 and subsections (4) and (5) of KRS 208.990 is to provide for the identifying of any abused or neglected child; to require reports of any suspected abused or neglected child; to assure that the protective services of the state will be made available to an abused or neglected child in order to protect such a child and his siblings; to further prevent abuse or neglect [by any person]; to preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care; and to provide for immediate and prompt investigation of such reports.

(2) Any physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child caring personnel, resident, intern, chiropractor, dentist, optometrist, health professional, peace officer, mental health professional or other person who knows or has reasonable cause to believe that a child is an abused or neglected child, shall report or cause a report to be made in accordance with the provisions of this section. When any of the above specified persons is attending a child as part of his professional duties, he shall report or cause a report to be made in accordance with the provisions of this section. Nothing in this section is intended to relieve individuals of their obligation to report.

(3) A report shall be made immediately by telephone or otherwise to the bureau or its delegated representative. The report shall be followed by a written report within forty-eight (48) hours if so requested by

the bureau. The bureau or its delegated representative shall immediately send a *report* [copy of all reports] of suspected physical or sexual abuse to the appropriate law enforcement agency for any appropriate action. Such *report* [reports] shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's abuse or neglect (including any evidence of previous abuse or neglect) to this child or his siblings; the name and address of the person responsible for the abuse or neglect; and any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section. The bureau may request and shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the bureau to fulfill its responsibilities under this section.

(4) *A search warrant shall be issued upon a showing of probable cause that a child is being abused or neglected.* [The fact that a report as provided in this section has been received is sufficient grounds for issuance of a search warrant, and] If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

(5) In a proceeding before the juvenile court to have a child removed from his home and placed in the custody of the bureau or the court, substantial evidence that the child is an abused or neglected child shall make a prima facie case for removal of the child even though it is not proved conclusively who has perpetrated the abuse or who has caused the neglect.

(6) Anyone acting upon reasonable cause in the making of a report pursuant to this section, sections 530.060, 530.070, subsections (4) and (5) of KRS 208.020 and subsections (4) *and* [,] (5) [and (6)] of KRS 208.990 shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report.

(7) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client privilege, shall be a ground for *refusing to report under this section or for* excluding evidence regarding an abused or neglected child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section.

(8) Upon receipt of a report of an abused or neglected child pursuant to this section, the bureau as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child, preventing further abuse or neglect of the child or any other child under the same care, preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(9) All information obtained by the bureau staff or its delegated representative, as a result of investigation made pursuant to this section shall not be divulged to any one except: (a) persons suspected of neglect or abuse, provided that in such cases names of informants may be withheld, unless ordered by the court; (b) persons within the bureau with a legitimate interest or responsibility related to the case; (c) other medical, psychological, or social service agencies, or law enforcement agencies that have a legitimate interest in the case; (d) cases where a court orders release of such information.

(10) As a result of any report of suspected child abuse or neglect as defined in KRS 199.011(6) photographs and x-rays may be taken or caused to be taken, without the consent of the parent or other person responsible for the child, as a part of the medical evaluation or investigation of such reports. Such photographs and x-rays may be introduced into evidence in any subsequent judicial proceedings. The person taking such photographs or x-rays shall be immune from criminal or civil liability.

Section 3. KRS 199.341 is amended to read as follows:

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I

Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II
Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employe thereof; a subdivision of a party state, or officer or employe thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III
Conditions for Placement

(a) No sending *agency* [state] shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV
Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V
Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI

Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

1. Equivalent facilities for the child are not available in the sending agency's jurisdiction; and
2. Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII

Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII

Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX

Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the states affected as to all severable matters.

Section 4. KRS 199.370 is amended to read as follows:

(1) The provisions of KRS 199.350 shall not apply to a *parent, step-parent, grandparent, adult brother or sister, or adult uncle or aunt* [relative] going to any other state *or country* and bringing a child into this state

for the purpose of giving it a home in his own family, and may be waived by the department for any child brought into the state under the supervision of the division or licensed child-caring or child-placing institution or agency by written agreement with the responsible [state] agency of the other state *or country, or under special circumstances agreed to in writing by the department and the persons wishing to import a child.*

(2) The provisions of KRS 199.350 shall not apply to placements made pursuant to the interstate compact on the placement of children.

Section 5. KRS 199.460 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the department, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 199.350 to 199.370 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected *or abused,* abandoned or in danger of becoming delinquent;

(2) Cooperate with and assist the juvenile courts of the various counties;

(3) Assist circuit courts through services to children whenever requested by the court; and

(4) Perform such other services as may be deemed necessary for the welfare of children.

Section 6. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The child welfare worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case reasons for the child welfare worker's recommendation shall be given in writing. The recommendation of the child welfare worker shall then be reviewed by the secretary. Based on the report and recommendation of the child welfare worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty days after the receipt of the application. In reaching his decision the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological and psychiatric standpoint. If the application is refused the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) In any case where the department refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten days after notice of refusal, the natural or proposed adopting parent or parents shall appeal to the circuit court of the county in which the adoption is proposed, provided however that no placement shall be disapproved on the basis of the religious, ethnic, racial or inter-faith background of the adoptive applicant, if such placement is made with the consent of the parent. The department shall be made a party defendant to the appeal. In the hearing of an appeal the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

(3) No person, association or organization, other than the department or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise; except in the home of a stepparent, grandparent, sister, brother, aunt or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the department for human resources in carrying out its aid to dependent children program in accordance with KRS Chapter 205.

(4) In the event a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or in the event permission to receive a child has been denied, a representative of the department may petition the juvenile court of the county in which the child is found setting out the facts concerning the child. When such petition has been filed, the juvenile court shall take jurisdiction of the child and shall provide for it as it would provide for a *dependent* [needy], neglected or *abused* [dependent] child under KRS 208.020 except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or such action is ordered by a circuit court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) Nothing in this statute shall be construed to limit the authority of the department or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile court or the circuit court, prior to the filing of an application to place or receive.

Section 7. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a legitimate child or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged incompetent and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.600 to 199.630; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.600 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (2) of KRS 199.600 exist with respect to such child.

(5) In no case shall an adoption be granted or a consent for adoption be held valid if such consent for adoption is given prior to the fifth day after the birth of the child.

SECTION 8. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) A petition for the voluntary termination of parental rights may be filed by a parent.

(2) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

(3) The circuit court shall have jurisdiction of proceedings under this chapter to terminate parental rights. A petition for voluntary termination of parental rights may be filed in any circuit court of the Commonwealth.

(4) The petition for the voluntary termination of parental rights under this Act shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex and date of birth of the child;

(c) Relationship of each petitioner to the child;

(d) Reasons for desiring the termination of parental rights;

(e) Name and address of the person or of the department or authorized agency to which parental rights are sought to be transferred.

A statement that the person, department or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child shall be filed with the petition.

(5) When a petition for the voluntary termination of parental rights is filed, the court shall set a date for a hearing thereon. The court shall require notice to be served upon the department for human resources in any case where a statement from the department of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the department or a licensed agency.

(6) All hearings shall be held before the court, privately for the purpose of determining the facts.

(7) The best interest of the child shall be considered paramount.

(8) At the time of the hearing, the court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) If the court determines that all parties with parental rights to the child under the law have either petitioned the court to have their parental rights terminated voluntarily or have had their rights terminated involuntarily by an order entered by a court of competent jurisdiction, and that the termination of parental rights and their transfer are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of this Act, it shall make an order terminating all parental rights and obligations in the parent in whom they have existed, and releasing the child from all legal obligations to his parents, and transferring such parental rights to some other person or authorized agency or department as may, in the opinion of the court, be best qualified to receive them, except that the child shall retain the right to inherit from its parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the department, or authorized agency to consent to the adoption of such child.

(2) Any order entered under this Act shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) In a proceeding involving a dependent, neglected or abused child, as defined in KRS 199.011, the circuit court may terminate all parental rights of the parent of such child, and declare the child to be a ward of the state, and vest the care, custody and control of the child in the department, or in any licensed child-caring or child-placing agency or institution, if facilities are available to receive the child, if it is pleaded and proved by preponderance of the evidence in a private hearing that the termination is in the best interest of the child based on the existence of one (1) or both of the following conditions:

(a) The child has been abandoned; or

(b) The child has been substantially or continuously or repeatedly neglected or abused.

(2) In the case of conditions described in subsection (1)(a) or (b), no finding by the court is necessary that the abandonment, neglect or abuse was intentional if in fact the abandonment, neglect or abuse occurred.

(3) Factors to be considered by the court in determining the best interests of the child in circumstances of abandonment, neglect, or abuse shall include:

(a) Emotional illness, mental illness, or mental deficiency of the parent rendering the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time based on psychological or psychiatric evidence;

(b) Acts of abuse or neglect toward any child in the family;

(c) Repeated or continuous failure by the parents to provide the child with adequate food, clothing, shelter, or other care and control necessary for his physical, mental, or emotional health and development except that poverty alone shall not be grounds for involuntary termination of parental rights;

(d) If the child has been placed with the department or a child placing or child caring agency, the services provided or offered to the parent to facilitate a reunion, including the parents' testimony concerning such services;

(e) The effort the parent has made to adjust his circumstances, conduct, or conditions to make it in the child's best interest to return him to his home in the forseeable future;

(f) The extent to which the parent has maintained regular visitation or other contact with the child as part of a plan to reunite the child with the parent;

(g) The payment of a reasonable portion of substitute physical care and maintenance if financially able to do so;

(h) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time.

(4) If the circumstances described in subsection (1), (2), or (3) of this section exist with respect to only one (1) of the two (2) parents, the parental rights of that parent may be terminated, in which case the child shall not be declared to be a ward of the state, unless with the voluntary consent of the other parent, or if one (1) of the two (2) parents has wilfully, substantially, and continuously refused for a period of at least one (1) year to give or pay any support, the parental rights of that parent may be terminated immediately by order of the court, in which case the child shall not be declared a ward of the state, unless with the voluntary consent of the other parent.

(5) In the event the infant is made party defendant to the action, the boarding home or foster parent shall not be served with summons notwithstanding provisions of CR 4.04 (2).

(6) The court may be convened at any time wherever the judge thereof may be found within the district, irrespective of the regular term for the purpose of terminating parental rights under this section, and shall complete the same as soon as possible.

(7) Proceedings under this Act may be instituted upon petition by the department, any child-placing agency licensed by the department, any probation officer, any state or local law enforcement officer, any county or commonwealth's attorney or parent.

(8) In the event a parent who is a defendant in an action for involuntary termination of parental rights is for financial reasons unable to obtain legal representation, the court shall appoint an attorney for such person if defendant requests counsel. The court shall inform the defendant of his right to counsel if possible. The court shall appoint counsel for any defendant under this statute if in the opinion of the court justice will be served. Unless the attorney appointed receives a salary or fee from another source, he shall be paid a reasonable fee for his services which shall be taxed as costs not to exceed three hundred dollars ($300).

(9) In any action for involuntary termination of parental rights, the child to whom the action directly relates shall be made a party defendant to the action and a guardian ad litem shall be appointed to represent his interest.

SECTION 11. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The father of a child born out-of-wedlock shall be made a party and brought before the court in the same manner as any other party to a termination action if one of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit; or

(b) Prior to the entry of a final order in any of the above proceedings, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within thirty (30) days after birth of the child; or

(c) He has caused his name to be affixed to the birth certificate of the child; or

(d) He has commenced a judicial proceeding claiming parental right; or

(e) He has contributed financially to the support of the child either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or is openly living with the child or the person designated on the birth certificate as the natural mother of said child.

(2) In an action for involuntary termination of parental rights service shall be accomplished by personal service where possible or constructive service where personal service is not possible, all of which is to be done pursuant to the Kentucky Rules of Civil Procedure.

(3) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and has been filed with the petition for involuntary termination of parental rights, or an order terminating parental rights has been entered by a court of competent jurisdiction.

(4) No petition may be filed under this Act prior to five (5) days after the birth of the child.

SECTION 12. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court shall have jurisdiction of proceedings under this chapter to terminate parental rights. A petition for involuntary termination of parental rights may be filed in the circuit court for any of the counties in the following order of priority:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court action concerning the child, if any, has commenced;

(c) The county in which the child involved resides or is present.

(2) The petition for involuntary termination of parental rights under this Act shall be verified and contain the following:

(a) Name and identity of each petitioner;

(b) Name, sex, and date of birth of the child;

(c) Name and address of the parents of the child;

(d) Grounds for the termination of parental rights;

(e) Name and identity of the person or the authorized agency to which custody is sought to be transferred;

(f) Statement that the agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(g) Other information concerning termination or disclaimers of parenthood.

SECTION 13. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Any order terminating the parental rights of any person under the provisions of this Act, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the department upon request if the department is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(2) Where parental rights have been terminated pursuant to this Act all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from its parents under the laws of descent and distribution until the child is adopted.

SECTION 14. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment, decree, or order of the circuit court involuntarily terminating parental rights in accordance with the Kentucky Rules of Civil Procedure and Kentucky Rules of Appellate Procedure.

Section 15. KRS 208.080 is amended to read as follows:

(1) After a petition has been filed and after such further investigation as the court may direct, unless the parties appear voluntarily, the court shall issue a summons briefly reciting the substance of the petition and

requiring the person who has the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(2) If it appears to the court, by affidavit or by sworn testimony, [at the time the summons is issued,] that the child is in such condition or surroundings that *he is being harmed or threatened with harm to such a degree that his best interest* [his welfare] requires that his custody be immediately assumed by the court, the judge may *sign an order giving temporary custody of the child to the court. As a part of such order, the court may request that the child shall be picked up by the peace officer serving the summons or by any other peace officer and placed as directed by the court. In any event, a copy of the temporary custody order shall be served on the parent, guardian or custodian of the child when the summons is served. The temporary custody order shall be effective until the case is heard on its merits, or until modified by the court. As a result of such* order, [by indorsement on the summons, that the officer serving the summons shall at once take the child into custody. In such cases,] the child shall be placed in *custody and care in a family home or other suitable facility* [the detention facility] provided for under KRS 208.130, or in a facility operated by the department if the department is willing to receive the child or in a facility operated by a licensed child-caring institution or agency, and held therein pending further disposition by the court.

Section 16. KRS 199.600, 199.610, 199.620 and 199.630 are repealed.

HB 102, AN ACT relating to physicians' assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:
There is created a certification program for physicians' assistants.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:
As used in this Act:

(1) "Board" means the state board of medical licensure.

(2) "Physician's assistant" means a skilled person qualified by academic or clinical training and successful completion of an examination, certified by the board, who provides patient services and other assistance within the established scope of a physician's practice under the supervision and direction of a licensed physician responsible for the performance of the physician's assistant.

(3) "Approved program" means a program for the education and training of physician's assistants that has been approved or has received preliminary approval by the American medical association council on medical education, or the speciality board in the field of practice of the supervising physician, or has been approved by the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) No person shall hold himself out to the public as a certified physician's assistant or use a title designating such unless he has been certified by the board in accordance with the provisions of this Act.

(2) A physician's assistant shall, in the course of his duties, clearly identify himself as an assistant to a physician by wearing on his person a badge or nameplate with "physician's assistant" appearing thereon.

(3) No physician's assistant shall use the title of doctor or associate with his name or any other term which would indicate to other persons that he is qualified to engage in the general practice of medicine. A physician's assistant shall not be allowed to bill patients or in any way to charge for services. Nothing in this Act, however, shall be construed as to prevent the employer of a physician's assistant from charging for services rendered by the physician's assistant. The physician shall file with the board notice of employment and discharge of the physician's assistant at the time of said employment or discharge.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue certificates to physicians' assistants meeting the standards for certification established by administrative regulation of the board and may revoke or suspend a certificate when a physician's assistant fails to maintain the established standards for certification or is in violation of the administrative regulations promulgated by the board.

(2) The board may issue, with the recommendation of the advisory council, administrative regulations, not inconsistent with this Act or any other provision of the Kentucky Revised Statutes, to administer the provisions of this Act.

(3) The administrative regulations shall provide for, but not be limited to, the following:

(a) The physician's assistant shall be supervised by and responsible to a practicing physician licensed in accordance with the provisions of KRS Chapter 311;

(b) The physician's assistant shall be a graduate of a recognized training program or have the equivalent in training which may include training acquired in pursuit of a license as a licensed practical nurse;

(c) The physician's assistant shall successfully complete a written examination prepared or approved by the board. Persons licensed in Kentucky as registered nurses, who desire to become physician's assistants under the provisions of this Act, shall be certified upon successful completion of the examination.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A certified physician's assistant is prohibited from any of the following under this Act:

(a) Any act which requires interpretation or judgment in determining the refractive state of the human eye;

(b) The prescribing of contact lenses for the human eye, or the doing of any act in the examination, fitting or adapting of contact lenses to the human eye which requires interpretation or judgment;

(c) The prescribing of ocular exercises, visual training or orthoptics.

(2) This section shall not prohibit a physician's assistant from doing any of the following:

(a) The making of any measurement which does not require interpretation or judgment and consists of doing mechanical or manual acts in the gathering of data for evaluation by a physician, osteopath or optometrist;

(b) The insertion or removal of contact lenses from a patient's eye or the instruction of a patient as to proper lens insertion, removal and care;

(c) The modifying of the parameters of a contact lens under the direct supervision of a physician, osteopath or optometrist;

(d) Any other act not prohibited by law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is established an advisory council which shall advise the board on administrative regulations pertaining to the roles, functions and certification of the physicians' assistant. The council shall consist of thirteen (13) members appointed by the governor to four (4) year terms, except that initial terms shall be appointed as follows: three (3) for a term of one (1) year; four (4) for a term of two (2) years; four (4) for a term of three (3) years; and two (2) for a term of four (4) years.

(2) Membership of the council shall include two (2) educators of health manpower appointed from lists of three (3) names for each position submitted by the state medical schools, three (3) practicing physicians appointed from a list of three (3) names for each position submitted by the Kentucky medical association, one (1) registered nurse practitioner appointed from a list of three (3) names submitted by the Kentucky board of nursing education and nurse registration, one (1) hospital administrator appointed from a list of three (3) names submitted by the Kentucky hospital association, one (1) representative from the department for human resources appointed from a list of three (3) names submitted by the commissioner of the bureau for health services, one (1) consumer representative, one (1) representative of health care facilities appointed from a list of three (3) names submitted by the Kentucky association of health care facilities, one (1) individual appointed from a list of individuals who have participated in a training course for physician assistants, two (2) physicians' assistants appointed from a list of three (3) names submitted by the Kentucky academy of physician's assistants.

(3) The advisory council shall, within three (3) months after the appointment of the initial members of the council, develop and recommend to the board administrative regulations relating to the certification of physicians' assistants.

(4) The advisory council shall develop and recommend to the board criteria for the approval of programs for the training of physicians' assistants which have not been approved or received preliminary approval from the American medical association council on medical education.

(5) The council shall advise the board on revising physician's assistant certification standards and practice as national standards change, consistent with the trends and needs for health manpower in the Commonwealth of Kentucky.

(6) Council members shall serve without pay; however, each member shall be reimbursed for all necessary and actual expenses incurred in the conduct of their activities as members of the council.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall limit or prevent a physician from delegating to any person, for whom a physician is responsible, any acts, tasks or functions which are otherwise permitted by law or established by custom and not contrary to the law of the Commonwealth of Kentucky.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed as affecting the practices of paramedics who have been certified by the department for human resources as having been trained in emergency care techniques in an advanced emergency medical technician training program approved by the department for human resources.

Section 9. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure, or any assistant secretary thereof appointed as such by the board;

(4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;

(6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the secretary to be qualified and eligible therefor;

(7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days.

(8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the department for human resources, *the practice and activities of a physician's assistant as defined in Section 2 of this Act,* the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the department for human resources by KRS chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(10) "Physician" means *a* doctor of medicine or a doctor of osteopathy.

The Committee Substitute to **HB 102** is as follows:

HB 102, AN ACT relating to physicians' assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Board" means the state board of medical licensure;

(2) "Physician's assistant" means a skilled person qualified by academic and clinical training who provides patient care services and other assistance within the established scope of a physician's practice under the supervision and direction of a licensed physician who is responsible for the performance of the assistant and who possesses a certificate issued by the board;

(3) "Approved program" means a program for the education and training of physician's assistants that has been approved or has received preliminary approval by the American Medical Association Commission on Allied Health, Education and Accreditation or has been approved by the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board shall establish, with recommendations from the advisory council, rules and regulations, not inconsistent with this Act or any other provisions of the Kentucky Revised Statutes, for the certification and practice standards of physician's assistants, and shall issue certificates to physician's assistants meeting the established standards for certification. The board shall have the right to suspend or revoke a certificate when, with the recommendation of the advisory council, a physician's assistant fails to maintain the established standards for certification or is in violation of the rules and regulations established by the board. The rules and regulations shall include, but not be limited to, the following:

(a) The physician's assistant shall be supervised by, and responsible to, a practicing physician licensed in accordance with the provisions of KRS Chapter 311;

(b) The physician's assistant shall have successfully completed an approved program, or shall have the training and experience requirements equivalent to that of an approved program as determined by the board;

(c) The physician's assistant shall have successfully completed a proficiency examination such as is offered by the National Commission on Certification of Physician's Assistants or shall have successfully completed any other nationally recognized examination, or an examination as determined by the board;

(d) The board shall establish reciprocity agreements with other states for the certification of physician's assistants who are certified in other states when the standards of those states exceed or are equivalent to those established by the board;

(e) The board may conduct any investigation necessary to determine the eligibility of an applicant for certification. An applicant and his employing physician may be required to furnish additional documentation and information upon determination by the board that such documentation or information is necessary to evaluate the applicant's qualification;

(f) The rules and regulations regarding the certification of physician's assistants shall be designed to determine that each physician's assistant has the necessary knowledge and skill to perform the duties assigned him in a safe and competent manner;

(g) The board may promulgate regulations to assess the continued competence of a physician's assistant.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A person shall not perform the duties of a physician's assistant, hold himself out as a physician's assistant, or use a title or designation indicating he or she is a physician's assistant except as authorized by this Act and the rules and regulations promulgated pursuant to this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is established an advisory council which shall advise the board on administrative regulations pertaining to the roles, functions and certification of the physicians' assistant. The council shall consist of thirteen (13) members appointed by the governor to four (4) year terms, except that initial terms shall be appointed as follows: three (3) for a term of one (1) year; four (4) for a term of two (2) years; four (4) for a term of three (3) years; and two (2) for a term of four (4) years.

(2) Membership of the council shall include two (2) educators of health manpower appointed from lists of three (3) names for each position submitted by the state medical schools, three (3) practicing physicians appointed from a list of three (3) names for each position submitted by the Kentucky medical association, one (1) registered nurse practitioner appointed from a list of three (3) names submitted by the Kentucky board of nursing education and nurse registration, one (1) hospital administrator appointed from a list of three (3) names submitted by the Kentucky hospital association, one (1) representative from the department for human resources appointed from a list of three (3) names submitted by the commissioner of the bureau for health services, one (1) consumer representative, one (1) representative of health care facilities appointed from a list of three (3) names submitted by the Kentucky association of health care facilities, one (1) individual appointed from a list of individuals who have participated in a training course for physician assistants, two (2) physicians' assistants appointed from a list of three (3) names submitted by the Kentucky academy of physician's assistants.

(3) The advisory council shall, within three (3) months after the appointment of the initial members of the council, develop and recommend to the board administrative regulations relating to the certification of physicians' assistants.

(4) The advisory council shall develop and recommend to the board criteria for the approval of programs for the training of physicians' assistants which have not been approved or received preliminary approval from the American medical association council on medical education.

(5) The council shall advise the board on revising physician's assistant certification standards and practice as national standards change, consistent with the trends and needs for health manpower in the Commonwealth of Kentucky.

(6) Council members shall serve without pay; however, each member shall be reimbursed for all necessary and actual expenses incurred in the conduct of their activities as members of the council.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall limit or prevent any physician from delegating any acts, tasks or functions which are otherwise permitted by law or not contrary to the laws of the Commonwealth.

Section 6. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure, or any assistant secretary thereof appointed as such by the board;

(4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;

(6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verified information in the application to the secretary to be qualified and eligible therefor;

(7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days.

(8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the department for human resources, *the practice of a physician's assistant as defined in Section 1 of this Act*, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the department for human resources by KRS chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(10) "Physician" means a doctor of medicine or a doctor of osteopathy.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A certified physician's assistant is prohibited from any of the following under this Act:

(a) Any act which requires interpretation or judgment in determining the refractive state of the human eye;

(b) The prescribing of contact lenses for the human eye, or the doing of any act in the examination, fitting or adapting of contact lenses to the human eye which requires interpretation or judgment;

(c) The prescribing of ocular exercises, visual training or orthoptics.

(2) This section shall not prohibit a physician's assistant from doing any of the following:

(a) The making of any measurement which does not require interpretation or judgment and consists of doing mechanical or manual acts in the gathering of data for evaluation by a physician, osteopath or optometrist;

(b) The insertion or removal of contact lenses from a patient's eye or the instruction of a patient as to proper lens insertion, removal and care;

(c) The modifying of the parameters of a contact lens under the direct supervision of a physician, osteopath or optometrist;

(d) Any other act not prohibited by law.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

A certified physician's assistant is prohibited from administering anesthesia. This does not prohibit the physician's assistant from local infiltration anesthesia or sedation as prescribed by physicians or dentists.

HB 179, AN ACT relating to public and medical assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Department" means the department for human resources;

(2) "Secretary" means the secretary for human resources or his authorized representative;

(3) "Public assistance" means money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives or a family containing a combination of these categories *except that the term shall not be construed to permit the granting of financial aid where the purpose of such aid is to obtain an abortion, induced miscarriage or induced premature birth unless, in the opinion of a physician, such procedures are necessary for the preservation of the life of the woman seeking such treatment, or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child*;

(4) "Needy child" means a child who has been deprived of parental support by reasons prescribed by regulations within the scope of Title IV of the Social Security Act, its amendments and federal regulations and who does not have otherwise provided for him a subsistence compatible with decency and health;

(5) "Parent", in addition to natural or adoptive parent, shall include stepparent;

(6) "Needy aged" means a person who has attained the age of sixty-five and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(7) "Needy blind" means a person who has no vision or whose vision is so defective as to prevent the performance of ordinary activities for which eyesight is essential and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(8) "Person with whom a needy child lives" means the individual prescribed by regulation, with whom such child is living in a place of residence maintained by such individual by himself or together with one or more other persons;

(9) "Needy permanently and totally disabled" means a person eighteen years of age or older and who has a permanent physical or mental impairment, disease or loss that substantially precludes him from engaging in useful occupations within his competence and who is unable to provide for himself and who does not have otherwise provided for him a subsistence compatible with decency and health;

(10) "Private institution" means any establishment or place other than a public institution operated or maintained by any individual, association, corporation or other organization which provides a group living arrangement for four or more individuals, who are cared for and maintained in residence for compensation or otherwise;

(11) "Public institution" means any establishment or place which is the responsibility of and administered by the state or any political subdivision thereof providing a group living arrangement in which one or more individuals are cared for and maintained in residence;

(12) "Public medical institution" means any public institution the primary purpose of which is to furnish hospital care and medical treatment;

(13) "Person determined to be potentially responsible" means any person who:

(a) Is not aged, blind, disabled, incapacitated, or needed in the home

1. Because of the illness or incapacity of a member of the family, or

2. Because of children in the home under the age of six, or

(b) Volunteers for such determination;

(14) As used in KRS 205.650 to 205.700, unless the context otherwise requires:

(a) "Community work experience program" shall mean a program to provide work experience and training for recipients of public assistance who are not otherwise able to obtain employment or who are not actively participating in training or education programs;

(b) "Designated geographic area" shall mean one county or a portion of one county selected by the secretary as the site of a community work experience program; and

(c) "Recipient" shall mean a person who currently receives benefits from public assistance.

Section 2. KRS 205.510 is amended to read as follows:

As used in this chapter as it pertains to medical assistance unless the context clearly requires a different meaning:

(1) "Council" means the advisory council for medical assistance;

(2) "Dentist" means a person authorized to practice dentistry under laws of the commonwealth;

(3) "Medical care" as used in this chapter means essential medical, surgical, dental, optometric, podiatric, and nursing services, in the home, office, clinic, or other suitable places, which are provided or prescribed by physicians, optometrists, podiatrists or dentists licensed to render such service, including drugs and medical supplies, appliances, laboratory, diagnostic and therapeutic services, nursing home and

convalescent care, hospital care as defined in KRS 205.560(1)(a), and such other essential medical services and supplies as may be prescribed by such persons*; but not including abortions, or induced miscarriages or premature births, unless in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except in induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child.* However, this section does not authorize optometrists to perform any services other than those authorized by KRS chapter 320;

(4) "Nurses" means persons authorized to practice professional nursing under the laws of the Commonwealth;

(5) "Nursing home" means a facility which provides routine medical care in which physicians regularly visit patients, which provide nursing services and procedures employed in caring for the sick which require training, judgment, technical knowledge, and skills beyond that which the untrained person possesses, and which maintains complete records on patient care, and which is licensed pursuant to the provisions of KRS 216.405;

(6) "Optometrist" means a person authorized to practice optometry under the laws of the Commonwealth;

(7) "Pharmacist" means a person authorized to practice pharmacy under the laws of the Commonwealth;

(8) "Physician" means a person authorized to practice medicine or osteopathy under the laws of the Commonwealth;

(9) "Podiatrist" means a person authorized to practice podiatry under the laws of the Commonwealth;

(10) "Primary care center" means a facility which provides comprehensive medical care with emphasis on the prevention of disease and the maintenance of the patients' health as opposed to the treatment of disease;

(11) "Public assistance recipient" means a person who has been certified by the bureau for social insurance of the department for human resources as being eligible for, and a recipient of, public assistance under the provisions of this chapter;

(12) "Other persons eligible for medical assistance" may include the categorically needy excluded from money payment status by state requirements and classifications of medically needy individuals as permitted by federal laws and regulations and as prescribed by regulation of the secretary for human resources or his designee;

(13) "Vendor payment" means a payment for medical care which is paid by the department for human resources directly to the authorized person or institution which rendered medical care to an eligible recipient.

Section 3. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the department for human resources undertakes to pay shall be designated and limited by regulations promulgated by said department, pursuant to the provisions hereof. The selection of the class or classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories*; except where such aid is for the purpose of obtaining an abortion, induced miscarriage or induced premature birth unless, in the opinion of a physician such procedures are necessary for the preservation of the life of the woman seeking such treatment or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child*:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric, dental and optometric services;

(e) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one of the functions of the council to make recommendations to the department

for human resources with respect to such bases for payment.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the department for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for abortions, induced miscarriages or premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the social security act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions.

(6) [(5)]. Nothing in this section shall require that any payment be made for optometric services or ophthalmic supplies.

HB 186, AN ACT relating to sudden infant death syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

"Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) In order to obtain information which may be useful to research organizations studying the causes and incidence of the sudden infant death syndrome, a program is hereby established in the department for human resources. The purpose of this program shall be to obtain factual information concerning the characteristics, incidence, and distribution of the sudden infant death syndrome throughout the Commonwealth and to provide a means of public education concerning any research findings which may lead to the possible means of prevention, early identification and treatment of children susceptible to the sudden infant death syndrome.

(2) In instances where an ostensibly healthy child dies suddenly and unexpectedly with no known or apparent cause, as determined by a physician or a coroner, an autopsy shall be performed within forty-eight (48) hours and the results reported to the department and to the parents or legal guardian of the child.

(3) The provisions of subsection (2) of this section shall not apply in the case of the death of a child whose parent or guardian objects to an autopsy in simple written form and files such form with attending physician or coroner. In no event, however, shall an autopsy be performed pursuant to the provisions of subsection (2) of this section unless and until such parent or guardian has been informed of the provisions of subsection (2) and of this subsection, and has had an opportunity to render notification of his objection to the performance of such autopsy.

(4) In order to implement the provisions of this Act, the secretary for human resources shall:

(a) Promulgate regulations as may be necessary in order to obtain in proper form all information relating to the occurrence of sudden infant deaths which is relevant and appropriate for the establishment of a reliable statistical index of the incidence, distribution and characteristics of cases of the sudden infant death syndrome;

(b) Collect such factual information from physicians, coroners, medical examiners, hospitals and public health officials who have examined any child known or believed to have the sudden infant death syndrome;

(c) Make such factual information available to physicians, coroners, medical examiners, hospitals, public health officials and educational and institutional organizations conducting research as to the causes and incidence of the sudden infant death syndrome;

(d) Cause appropriate counseling services to be established and maintained for families affected by the occurrence of the sudden infant death syndrome; and

(e) Conduct educational programs to inform the general public of any research findings of educational and institutional organizations which may lead to the possible means of prevention, early identification and treatment of the sudden infant death syndrome.

and on lines 10-20, by deleting subsection (3) in its entirety

and on line 21 by renumbering subsection (4) as subsection (3)

SB 58, AN ACT relating to home health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.540 is amended to read as follows:

(1) An advisory council for medical assistance shall be established in the state government. The council shall consist of *fifteen (15)* [thirteen (13)] members. The secretary for human resources shall be an ex officio member. The other *fourteen (14)* [twelve (12)] members of the council shall be appointed by the Governor and shall hold office for a term of four (4) years and until their successors are appointed and qualify, except that the members appointed to fill the first vacancy occurring for a term beginning on July 1, 1960, shall be as follows: Two (2) members shall be appointed for one (1) year, two (2) for two (2) years, two (2) for three (3) years, and three (3) for four (4) years, and the respective terms of the first members shall be designated by the Governor at the time of their appointments. The term of the first optometrist member shall begin July 1, 1970. The term of the first podiatrist member shall begin July 1, 1974. *The term of the first home health care provider member shall begin July 1, 1978.* Upon the expiration of the respective terms of the members first appointed, the term of each successor shall be for four years or until his successor is appointed and qualified. Appointments shall be made one from each list of three nominees submitted by the following organizations: the Kentucky State Medical Association; the Kentucky Dental Association; the Kentucky Hospital Association; the Kentucky Pharmaceutical Association; the Kentucky Association of Nursing Homes and Personal Care Homes; the Kentucky State Association of Registered Nurses; *the State Board of Podiatry; the Kentucky Home Health Association;* and the Kentucky Optometric Association. The other five appointive members shall be intelligent and discreet citizens residing within the Commonwealth, who are not members of professional groups which are recipients of vendor payments. No nominee or member of the council shall be a stockholder or have any financial interest in any hospital, nursing home, or related institution.

(2) Each appointive member of the council shall serve without compensation but shall be entitled to reimbursement for his actual and necessary expenses in carrying out his duties.

(3) Vacancies shall be filled for the unexpired term in the same manner as original appointments, maintaining representations as set out in subsection (1) of this section.

(4) The council shall elect a chairman, vice-chairman, and secretary from among its members at its first regular meeting in each fiscal year and shall adopt rules governing its proceedings. The council shall hold a meeting at least once every three (3) months and such other special or regular meetings as may be desired.

Section 2. KRS 205.590 is amended to read as follows:

(1) The following technical advisory committees shall be established for the purpose of acting in an advisory capacity to the council with respect to the administration of the medical assistance program and in performing the function of peer review:

(a) A technical advisory committee on physician services consisting of five physicians appointed by the council of the Kentucky State Medical Association;

(b) A technical advisory committee on hospital care consisting of five hospital administrators appointed by the board of trustees of the Kentucky Hospital Association;

(c) A technical advisory committee on dental care consisting of five dentists appointed by the Kentucky Dental Association;

(d) A technical advisory committee on nursing service consisting of five nurses appointed by the board of directors of the Kentucky State Association of Registered Nurses;

(e) A technical advisory committee on drugs consisting of five pharmacists appointed by the Kentucky Pharmaceutical Association;

(f) A technical advisory committee on nursing home care consisting of five members appointed by the Kentucky Association of Nursing Homes;

(g) A technical advisory committee on optometric care consisting of five members appointed by the Kentucky Optometric Association;

(h) A technical advisory committee on podiatric care consisting of five podiatrists appointed by the Kentucky Podiatry Association.

(i) A technical advisory committee on primary care consisting of five (5) primary care providers, two (2) of whom shall represent licensed health maintenance organizations, appointed by the governor, until such time as an association of primary care providers is established, whereafter the association shall appoint the members;

(j) A technical advisory committee on home health care consisting of five (5) members appointed by the board of directors of the Kentucky Home Health Association.

(2) The members of the technical advisory committees shall serve until their successors are appointed and qualified.

(3) Each appointive member of a committee shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses in carrying out his duties.

The Committee on State Government reported **HB 199, HB 259, HR 41, HJR 20, HB 157** with Committee Substitute attached thereto, **HB 200** with Committee Amendments attached thereto, **HB 227, HB 352, HB 363,** and **SB 77** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 199, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

Upon the sine die adjournment of the General Assembly, each standing committee in the House of Representatives shall be merged with its corresponding committee in the Senate and shall be continued as a subcommittee of the Legislative Research Commission, to be known as an Interim Joint Committee, with powers to study and make recommendations as to any subject within its jurisdiction, according to the rules of the respective houses.

Section 2. KRS 7.320 is amended to read as follows:

(1) The legislative research commission, *and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies, and any other* [or a] subcommittee authorized by *the commission,* [it] shall study and examine expenditures of state agencies. The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.

(2) The commission may adopt rules and prescribe procedures for the conduct of its affairs.

(3) The commission, *and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies, and any other interim joint committee* may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the *Supreme Court or Franklin Circuit Court* [Court of Appeals] may on application of the commission *or committee in question,* compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission *or committee* by its order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission *or committee.*

Section 3. KRS 7.330 is amended to read as follows:

The commission, *and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies,* may:

(1) Perform an audit or investigation of any accounts, books and other financial records of the state government, or of any officer, department, board, bureau, institution, commission, agency, or other unit, of the state;

(2) Examine and audit any fiscal books, records and accounts of custodians of public funds, and of disbursing officers of the state, making independent verification of all assets, liabilities, revenues and expenditures of the state and agencies of the state;

(3) Review and evaluate any program supported in whole or in part by state appropriation. In any instance in which a program review indicates inadequate operating or administrative system controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the commission *or committee* may report its findings to the general assembly;

(4) Perform audit of any agency, private or semiprivate agency or organization receiving state funds;

(5) [The commission may, at any time,] Study or review any matter relative to program activities of any state department, agency, or institution;

(6) Require the assistance of any executives and officials, auditors, accountants, and other employes of any agency at any time in the inspection, examination and audit of books, accounts and records*;*

(7) Perform on-site visitations in the course of their meetings in conjunction with the above-enumerated powers.

Section 4. KRS 7.360 is amended to read as follows:

In the course of *their* [its] investigations and studies, the commission, *and any interim joint committee having general jurisdiction over matters pertaining to the executive budget and other appropriations of state moneys and the levying of state and local taxes, and any interim joint committee having general jurisdiction over matters pertaining to the sovereignty and jurisdiction of the Commonwealth and statutory administrative agencies,* may ascertain the amount on deposit in any bank belonging to the agency audited, and may audit the account on the books of the bank. No bank is liable for making available to the commission *or committee* any of the information required under this section.

HB 259, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.110 is amended to read as follows:

(1) The commission or any member thereof, or an employe duly authorized by the commission or the chairman thereof, shall have access to all records of every agency, division or department of state government, and of any agency or institution, public or private, which has been the recipient of public funds. The commission or any member thereof, or any employe duly authorized by the commission or the chairman thereof, *or any interim joint committee or standing committee upon a vote by a majority of its membership,* may require information on oath of any person touching any matter which he is instructed to investigate, study or audit, and shall have the power to subpoena witnesses and records for such purpose, and otherwise compel the giving of evidence of any matter under study. If any person fails or refuses to testify or furnish documentary evidence concerning any matter with respect to which the commission desires information pertaining to the studies in which it is engaged, the Franklin Circuit Court, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Every witness so subpoenaed under this section shall receive for his attendance the fee and mileage provided for witnesses in civil cases in circuit court, which shall be audited and paid upon the presentation of proper vouchers sworn to by the witness and approved by the commission.

(2) All state agencies and institutions shall cooperate with the commission to effectuate the purposes of KRS 7.090 to 7.110 and shall submit copies of their annual or biennial reports to the commission.

(3) The commission shall encourage and arrange conferences with officials of other states and of other units of government; carry forward the participation of this state as a member of the council of state governments, both regionally and nationally, and formulate proposals for cooperation between this state and other states. The legislative research commission shall function as Kentucky's commission on interstate cooperation in carrying out the program of the council of state governments as it relates to Kentucky.

(4) The commission shall designate persons to represent Kentucky at the national conference of commissioners on uniform state laws. The commission shall report the findings and recommendations of the national conference to the general assembly. Any funds appropriated to the commissioners on uniform state laws shall be paid out on vouchers approved by the director of the commission.

(5) The commission may establish such subcommittees and advisory citizens' committees as may be convenient or desired for the proper and efficient performance of its functions. Members of the general assembly designated to serve on subcommittees shall receive the same travel allowances and compensation for attending meetings as they do for attending meetings during a session of the general assembly, except that each general assembly member who is a chairman of a joint interim committee of the legislative research committee shall be paid sixty dollars ($60.00) per day for each committee meeting that he chairs.

(6) The commission shall report its findings, either with or without recommendations, to the governor of the commonwealth, and to each member of the general assembly at least thirty (30) days prior to the convening of each regular session of the general assembly.

Section 2. KRS 7.320 is amended to read as follows:

(1) The legislative research commission or a subcommittee authorized by it, shall study and examine expenditures of state agencies. The commission may organize and adopt rules for the conduct of its business and do whatever else it considers necessary or advisable to carry out the purposes of KRS 7.310 to 7.380.

(2) The commission may adopt rules and prescribe procedures for the conduct of its affairs.

(3) The commission *or any interim joint committee or standing committee upon a vote by a majority of its membership,* may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, and have the deposition of witnesses taken in the manner prescribed by law for taking depositions in civil actions. If a person disobeys or refuses to comply with a subpoena, or if a witness refuses to testify to a matter regarding which he may be lawfully interrogated, the Court of Appeals may on application of the commission *or any interim joint or standing committee,* compel obedience by proceedings for contempt in the same manner as in the case of disobedience of the requirements of a subpoena issued from the court or a refusal to testify in the court. Each witness who appears before the commission *or any interim joint committee or standing committee,* by [its] order, other than an officer or employe of the state, is entitled to the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the commission.

HR 41, A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives of the General Assembly.

WHEREAS, the Honorable John Y. Brown, Sr., has in the past addressed the General Assembly on the anniversary of the birth of Abraham Lincoln; and

WHEREAS, Mr. Brown's repertoire of oratory is exceeded by none other throughout this great Commonwealth; and

WHEREAS, John Y. Brown, Sr., once having donned the headgear of a locomotive engineer in this House of Representatives, now may engineer another of his remarkable Lincoln Day addresses; and

WHEREAS, it behooves all members of this great body to enjoy the remembrance of "The Great Emancipator" in a manner unlikely to be equaled throughout their days;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable John Y. Brown, Sr., be and he hereby is invited to address the House of Representatives on Tuesday, February 14, 1978, in honor of Lincoln's birthday.

Section 2. That the Clerk is hereby directed to mail a copy of this resolution to the Honorable John Y. Brown, Sr.

HJR 20, A JOINT RESOLUTION directing a study of the demand for and prospective costs of military service credit for members of Kentucky Retirement Systems and carrying an appropriation therefor.

WHEREAS, the 1974 General Assembly established a program to permit members of the Kentucky Employes Retirement System, State Police Retirement System and County Employes Retirement System who are eligible for retirement or who are vested in their respective systems to receive current service credit for a maximum of four years of military service; and

WHEREAS, implementation of the military service credit program is dependent upon the availability of funds appropriated by the General Assembly for that purpose; and

WHEREAS, the General Assembly cannot assess the need for the military service credit program nor adequately evaluate requests for appropriations for the program without information concerning the demand for and prospective costs of the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the board of trustees of the Kentucky Retirement Systems is directed to conduct, or cause to be conducted, the necessary survey and audit to determine the number of persons, by year of commencement of membership, who became members of the Kentucky Employes Retirement System, State Police Retirement System, or County Employes Retirement System on or before December 31, 1977, who are eligible, or may become eligible to participate in the military service credit program established by KRS

61.555(4) and (5), KRS 16.541(3), and KRS 78.545(6). The Board is further directed to determine the proportion of those eligible members, by year of commencement of membership, who are interested in participating in the program and to determine the cost to the state of funding the military service credit program for all of those eligible members who are interested in participating in the program and for each group of eligible and interested members, defined by year of commencement of membership.

Section 2. That the Board of Trustees of the Kentucky Retirement Systems shall report the findings of the study directed by Section 1 of this Resolution to the 1980 General Assembly.

Section 3. To carry out the purpose of this Resolution, there is appropriated to the Board of Trustees of the Kentucky Retirement Systems out of the General Fund in the State Treasury the sum of five thousand dollars ($5,000) for the fiscal year 1978-79.

HB 157, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) *"Commonwealth" means the Commonwealth of Kentucky;*

(3) "Corporation" means the Kentucky housing corporation created by this chapter;

(4) [(3)] "Sponsors" [, "builders" or "developers"] means *persons,* [nonprofit] corporations, associations, partnerships or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to *persons and families of lower income, and shall include without limitation, organizations engaged in the production, origination and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended* [lower income persons and families];

(5) [(4)] "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors [, builders and developers] of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage *loan,* including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders and/or developers;

(6) [(5)] "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) [(6)] "Governmental agency" means any *city, county, taxing district or other political subdivision of the Commonwealth, the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof* [department, division, public agency, political subdivision or other public instrumentality of the Commonwealth, the federal government, any other state or public agency, or any two or more thereof];

(8) [(7)] "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) [(8)] "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or

by the Commonwealth of Kentucky or any agency or instrumentality thereof;

(10) [(9)] "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured or guaranteed by or for which there is a commitment to make, insure and guarantee by, (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth [of Kentucky] or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

(11) [(10)] "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower income and making, installing or constructing non-residential housing improvement, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare such land primarily for residential housing construction;

(12) [(11)] "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(13) [(12)] "Persons and families of lower income" means persons and families of insufficient personal or family income *to afford decent, safe and sanitary residential housing without the financial assistance of the corporation* as determined *from time to time* by the standards established by the corporation *acting by and through its board of directors*;

(14) [(13)] "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other non-housing facilities as may be incidental or appurtenant thereto; *and*

(15) [(14)] "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs;

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family [; and

(15) "State" means the Commonwealth of Kentucky].

Section 2. KRS 198A.020 is amended to read as follows:

(1) The general assembly hereby finds and declares that as a result of the spread of slum conditions and blight to formerly sound urban and rural neighborhoods and as a result of actions involving highways, public facilities and urban renewal activities there exists in the Commonwealth [of Kentucky] a serious shortage of decent, safe and sanitary residential housing available at [low] prices or rentals *which can be afforded by* [to] persons and families of lower income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas, and is inimical to the health, safety, welfare and prosperity of all residents of the *Commonwealth* [state] and to the sound growth of Kentucky communities.

(2) The general assembly hereby finds and declares further that private enterprise and investment have not been able to produce, without assistance, the needed construction of decent, safe and sanitary residential housing at low prices or rentals which persons and families of lower income can afford, or to achieve the urgently needed rehabilitation of much of the present *supply of residential housing available for persons and families of* lower income [housing]. It is imperative that the supply of residential housing for persons and families of lower income affected by the spread of slum conditions and blight and for persons and families of lower income displaced by public actions or natural disaster be increased; and that private enterprise and investment be encouraged to sponsor, build and rehabilitate residential housing for such persons and families, to help prevent the recurrence of slum conditions and blight and assist in their permanent elimination throughout *the Commonwealth* [Kentucky].

(3) The general assembly hereby finds and declares further that the purposes of this chapter are to provide financing for development costs, land development and residential housing construction, new or

rehabilitated, for sale or rental to persons and families of lower income.

(4) *In the accomplishment of its proper governmental purposes, the corporation is hereby granted the authority and right to adopt reasonable rules and regulations for the proper conduct of its business in connection with the administration, protection, safeguarding, inspection and operation of residential housing in respect of which the corporation has provided financing or other assistance and for the safety, protection and welfare of persons and families of lower income who occupy such residential housing.*

(5) The general assembly hereby finds and declares further that in accomplishing this purpose, the Kentucky housing corporation shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky created for the performance of essential public functions and the serving of public purposes in improving and promoting the health, welfare and prosperity of the people of the Commonwealth of Kentucky by the production of residential housing.

Section 3. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth [of Kentucky] which shall be a public body corporate and politic to be known as the Kentucky housing corporation.

(2) The Kentucky housing corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth [of Kentucky] to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The [housing] corporation shall be governed by a board of directors, consisting of thirteen (13) members, five (5) of whom shall be the secretary of the executive department for finance and administration, the director of the office for local government, the commissioner of revenue, the attorney general, and the commissioner of commerce, or their duly appointed designees, as public directors, and eight (8) of whom shall be chosen from the general public residing in the Commonwealth, as private directors.

(4) Upon organization of the [housing] corporation, the governor shall appoint the eight (8) private directors to take office and to exercise all powers thereof immediately. Of the eight (8) *directors* [members] of the corporation thus appointed, two shall continue in office for terms of one year, and two for terms of two, three and four years respectively as the governor shall designate; at the expiration of said terms and for all succeeding terms, the governor shall appoint a successor to the office of private director for a term of four years in each case.

(5) In case of a vacancy, the governor may appoint a person for such a vacancy to hold office during the remainder of the term.

(6) The governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for such vacancy as provided in other cases of vacancy.

(7) The governor shall designate a *director* [member] of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a *director* [member] of the corporation or a date six months after the expiration of the then current term of the governor designating such chairman.

(8) The *board of directors* [corporation] shall annually elect one of its members as vice chairman. The *board of directors* [corporation] shall also elect or appoint, and prescribe the duties of, such other officers as the *board of directors* [corporation] deems necessary or advisable, including an executive director and a secretary, and the *board of directors* [corporation] shall fix the compensation of such officers.

(9) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the *board of directors* [members] of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. *The secretary* [He] shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies.

(11) Action shall be taken by the corporation upon a vote of a majority of the *directors* [members] present at a meeting *at which a quorum shall exist* called upon three days' written notice to each director or upon the *written* concurrence of at least seven directors.

(12) *All* directors [shall receive no compensation for their services but] shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter. *Each private director appointed pursuant to subsection (3) of this section shall be entitled to a fee of fifty dollars*

($50.00) for attendance at each meeting of the board of directors.

Section 4. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans were not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, [or] sublease, or *condemnation in the manner provided by the provisions of KRS Chapter 416 (provided, however, that no such real property or any interest therein may be acquired by condemnation except upon resolution duly adopted by the board of directors of the corporation, such resolution to be adopted in advance of any such condemnation proceedings) and* [otherwise;] to own, manage, operate, hold, clear, improve and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky housing corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease and sublease residential housing for persons and families of lower income and to enter into agreements or other transactions with any federal, state or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two years from their date, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes, *including rules and regulations relating to the proper management, operation and safeguarding of residential housing in respect of which the corporation has provided financing and for the protection, benefit, welfare, health and safety of persons and families of lower income who inhabit such residential housing*;

(13) To provide technical and advisory services to sponsors [, builders and developers] of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute and effectuate any and all agreements or other documents with any *governmental* [federal or state] agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriation, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(23) To invest any funds held in reserve or in sinking fund accounts or any monies not required for immediate disbursement in obligation guaranteed by the *Commonwealth* [State], the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the internal revenue service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonable equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, [builders, developers,] municipalities, local housing authorities and to owners of residential housing for the development, construction, rehabilitation or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of *lower* [low] income; and

(28) The Kentucky housing corporation shall be exempt from the regulations of the department of insurance and the laws of the Commonwealth relating thereto.

Section 5. KRS 198A.090 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance, at one time or from time to time, of not exceeding *$700,000,000* [$400,000,000] bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten years from their date or dates and bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the *Commonwealth* [state]. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the

registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(3) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(4) Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the state property and buildings commission, pursuant to the provisions of KRS Chapter 56.

(5) The executive department for finance and administration shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

Section 6. KRS 198A.160 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and, if deemed advisable by the corporation, for any corporate purpose of the corporation. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the corporation in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

(2) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended. *Any such refunding transaction may, but need not, provide that, pending the redemption of the obligations being refunded, the refunding bonds shall be payable from the proceeds of the investment of such refunding bonds.*

Section 7. KRS 198A.165 is amended to read as follows:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for housing purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such bond issue or note issue should, in violation of any contract made by the corporation with any bondholder or note holder be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the executive department for finance and administration, and to the governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the general assembly *of an appropriate legislative appropriation by the general assembly* to the corporation for the use and benefit of such reserve fund or replacement fund *be submitted to such session of the general assembly.* In the event the next scheduled regular session of the general assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

Section 8. KRS 198A.060 is repealed.

The Committee Substitute to **HB 157** is as follows:

HB 157, AN ACT relating to the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.010 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation under this chapter but shall not include any fund notes;

(2) "Commonwealth" means the Commonwealth of Kentucky;

(3) "Corporation" means the Kentucky housing corporation created by this chapter;

(4) [(3)] "Sponsors" [, "builders" or "developers"] means *persons,* [nonprofit] corporations, associations, partnerships or other entities, consumer housing cooperatives and limited dividend housing corporations, associations, partnerships or other entities organized pursuant to the Kentucky Revised Statutes for the primary purpose of providing housing to *persons and families of lower income, and shall include without limitation, organizations engaged in the production, origination and development of residential housing units intended to qualify for financial assistance pursuant to Section 8 of the United States Housing Act of 1937, as amended* [lower income persons and families];

(5) [(4)] "Development costs" means the costs approved by the corporation as appropriate expenditures and credits which may be incurred by sponsors [, builders and developers] of residential housing, prior to commitment and initial advance of the proceeds of a construction loan or of a mortgage *loan,* including but not limited to:

(a) Payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of such properties;

(b) Legal and organizational expenses, including payments of attorney's fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(c) Payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(d) Expenses for tenant surveys and market analyses;

(e) Necessary application and other fees; and

(f) Credits allowed by the corporation to recognize the value of service provided at no cost by the sponsors, builders and/or developers;

(6) [(5)] "Fund notes" means the notes authorized to be issued by the corporation under the provisions of KRS 198A.080;

(7) [(6)] "Governmental agency" means any *city, county, or other political subdivision of the Commonwealth, the Commonwealth and any department, division or public agency thereof, the federal government or any political subdivision of any other state, any public housing authority or any nonprofit corporation or other entity legally empowered to act on behalf of any of the foregoing to perform the duties of a public housing authority, or any two (2) or more thereof* [department, division, public agency, political subdivision or other public instrumentality of the Commonwealth, the federal government, any other state or public agency, or any two or more thereof];

(8) [(7)] "Housing development fund" means the housing development fund created by KRS 198A.080;

(9) [(8)] "Insured construction loan" means a construction loan for land development or residential housing which is secured by a mortgage either insured or guaranteed by or for which there is a commitment to insure or guarantee by (a) the United States of America or any agency or instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth of Kentucky or any agency or instrumentality thereof;

(10) [(9)] "Insured mortgage" or "insured mortgage loan" means a mortgage loan for land development for residential housing or for residential housing either made, insured or guaranteed by or for which there is a commitment to make, insure and guarantee by, (a) the United States of America or any agency or

instrumentality thereof; or (b) any other entity which has been duly approved for the insuring of such loans by the United States of America or by the Commonwealth [of Kentucky] or any agency or instrumentality thereof and shall also refer to and mean any loan for residential housing not secured by mortgage which is insured or guaranteed to at least eighty-five percent (85%) of its principal amount by the United States of America or any agency or instrumentality thereof;

(11) [(10)] "Land development" means the process of acquiring land primarily for residential housing construction for persons and families of lower income and making, installing or constructing non-residential housing improvement, including water, sewer and other utilities, roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation deems necessary or desirable to prepare such land primarily for residential housing construction;

(12) [(11)] "Obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the corporation under the provisions of this chapter;

(13) [(12)] "Persons and families of lower income" means persons and families of insufficient personal or family income *to afford decent, safe and sanitary residential housing without the financial assistance of the corporation* as determined *from time to time* by the standards established by the corporation *acting by and through its board of directors*;

(14) [(13)] "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations for persons and families of lower income, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other non-housing facilities as may be incidental or appurtenant thereto; *and*

(15) [(14)] "Tenant programs and services" means services and activities for persons and families living in residential housing, including the following:

(a) Counseling on household management, housekeeping, budgeting, and money management;

(b) Child care and similar matters;

(c) Access to available community services related to job training and placement, education, health, welfare, and other community services;

(d) Guard and other matters related to the physical security of the housing residents;

(e) Effective management-tenant relations, including tenant participation in all aspects of housing administration, management and maintenance;

(f) Physical improvements of the housing, including buildings, recreational and community facilities, safety measures, and removal of code violations;

(g) Advisory services for tenants in the creation of tenant organizations which will assume a meaningful and responsible role in the planning and carrying out of housing affairs;

(h) Procedures whereby tenants, either individually or in a group, may be given a hearing on questions relating to management policies and practices, either in general or in relation to an individual or family [; and

(15) "State" means the Commonwealth of Kentucky].

Section 2. KRS 198A.020 is amended to read as follows:

(1) The general assembly hereby finds and declares that as a result of the spread of slum conditions and blight to formerly sound urban and rural neighborhoods and as a result of actions involving highways, public facilities and urban renewal activities there exists in the Commonwealth [of Kentucky] a serious shortage of decent, safe and sanitary residential housing available at [low] prices or rentals *which can be afforded by* [to] persons and families of lower income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas, and is inimical to the health, safety, welfare and prosperity of all residents of the *Commonwealth* [state] and to the sound growth of Kentucky communities.

(2) The general assembly hereby finds and declares further that private enterprise and investment have not been able to produce, without assistance, the needed construction of decent, safe and sanitary residential housing at low prices or rentals which persons and families of lower income can afford, or to achieve the urgently needed rehabilitation of much of the present *supply of residential housing available for persons and families of* lower income [housing]. It is imperative that the supply of residential housing for persons and families of lower income affected by the spread of slum conditions and blight and for persons and families of lower income displaced by public actions or natural disaster be increased; and that private enterprise and investment be encouraged to sponsor, build and rehabilitate residential housing for such persons and families, to help prevent the recurrence of slum conditions and blight and assist in their permanent elimination throughout *the Commonwealth* [Kentucky].

(3) The general assembly hereby finds and declares further that the purposes of this chapter are to provide financing for development costs, land development and residential housing construction, new or rehabilitated, for sale or rental to persons and families of lower income.

(4) The general assembly hereby finds and declares further that in accomplishing this purpose, the Kentucky housing corporation shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky created for the performance of essential public functions and the serving of

public purposes in improving and promoting the health, welfare and prosperity of the people of the Commonwealth of Kentucky by the production of residential housing.

Section 3. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth [of Kentucky] which shall be a public body corporate and politic to be known as the Kentucky housing corporation.

(2) The Kentucky housing corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth [of Kentucky] to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The [housing] corporation shall be governed by a board of directors, consisting of thirteen (13) members, five (5) of whom shall be the secretary of the executive department for finance and administration, the *commissioner* [director] of the *department* [office] for local government, the commissioner of revenue, the attorney general, and the commissioner of commerce, or their duly appointed designees, as public directors, and eight (8) of whom shall be chosen from the general public residing in the Commonwealth, as private directors.

(4) Upon organization of the [housing] corporation, the governor shall appoint the eight (8) private directors to take office and to exercise all powers thereof immediately. Of the eight (8) *directors* [members] of the corporation thus appointed, two shall continue in office for terms of one year, and two for terms of two, three and four years respectively as the governor shall designate; at the expiration of said terms and for all succeeding terms, the governor shall appoint a successor to the office of private director for a term of four years in each case.

(5) In case of a vacancy, the governor may appoint a person for such a vacancy to hold office during the remainder of the term.

(6) The governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for such vacancy as provided in other cases of vacancy.

(7) The governor shall designate a *director* [member] of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a *director* [member] of the corporation or a date six months after the expiration of the then current term of the governor designating such chairman.

(8) The *board of directors* [corporation] shall annually elect one of its members as vice chairman. The *board of directors* [corporation] shall also elect or appoint, and prescribe the duties of, such other officers as the *board of directors* [corporation] deems necessary or advisable, including an executive director and a secretary, and the *board of directors* [corporation] shall fix the compensation of such officers.

(9) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the *board of directors* [members] of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. *The secretary* [He] shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies, and all persons dealing with the corporation may rely upon such certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies.

(11) Action shall be taken by the corporation upon a vote of a majority of the *directors* [members] present at a meeting *at which a quorum shall exist* called upon three days' written notice to each director or upon the *written* concurrence of at least seven directors.

(12) *All* directors [shall receive no compensation for their services but] shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter. *Each private director appointed pursuant to subsection (3) of this section shall be entitled to a fee of fifty dollars ($50.00) for attendance at each meeting of the board of directors.*

Section 4. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

(1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the

corporation that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans were not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(4) To make temporary loans from the housing development fund;

(5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, [or] sublease, or otherwise; to own, manage, operate, hold, clear, improve and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky housing corporation;

(7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;

(9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(10) To acquire, establish, operate, lease and sublease residential housing for persons and families of lower income and to enter into agreements or other transactions with any federal, state or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;

(11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two years from their date, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(13) To provide technical and advisory services to sponsors [, builders and developers] of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) To encourage community organizations to participate in residential housing development;

(16) To make, execute and effectuate any and all agreements or other documents with any *governmental* [federal or state] agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;

(17) To accept gifts, devises, bequests, grants, loans, appropriation, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) To sue and be sued in its own name, plead and be impleaded;

(19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(20) To adopt an official seal and alter the same at pleasure;

(21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor;

(23) To invest any funds held in reserve or in sinking fund accounts or any monies not required for immediate disbursement in obligation guaranteed by the *Commonwealth* [State], the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any

rulings of the internal revenue service regarding the investment of the proceeds of any federally tax exempt bond issue;

(24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;

(25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance or waiver shall be made only upon the determination by the corporation (a) that such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonable equivalent terms and conditions; and (b) that such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders and developers;

(26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, [builders, developers,] municipalities, local housing authorities and to owners of residential housing for the development, construction, rehabilitation or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;

(27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of *lower* [low] income; and

(28) The Kentucky housing corporation shall be exempt from the regulations of the department of insurance and the laws of the Commonwealth relating thereto.

Section 5. KRS 198A.090 is amended to read as follows:

(1) The corporation is hereby authorized to provide for the issuance, at one time or from time to time, of not exceeding *$600,000,000* [$400,000,000] bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten years from their date or dates and bonds shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the *Commonwealth* [state]. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(3) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(4) Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the state property and buildings commission, pursuant to the provisions of KRS Chapter 56.

(5) The executive department for finance and administration shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

HB 200, AN ACT relating to public roads and highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.310 is amended to read as follows:

Any such claim shall be commenced in Franklin Circuit Court within one (1) year from the date of completion specified in the contract, *except that for contracts for the construction, reconstruction, improvement or repair of buildings or highways awarded by the department of transportation the claim must be filed in Franklin Circuit Court within one (1) year from the date of the final construction inspection report.*

Section 2. KRS 176.240 is amended to read as follows:

(1) The bureau may contract with the federal government in regard to the survey, construction and maintenance of roads under any act of congress providing federal aid to the states in road construction, and may, subject to the rules of the United States secretary of *transportation* [agriculture], make plans for and supervise the construction of federal aid roads, and may do all things necessary to fully carry out the cooperation contemplated.

(2) The bureau may set apart out of moneys appropriated out of the state road fund an amount equal to any sum allotted to the state by the federal government, or any sum necessary to carry on cooperative work with the federal government.

(3) The state treasurer may receive money due under the provisions of any federal aid act, and he shall pay out such money upon warrants of the executive department for finance and administration issued in payment of claims certified by the bureau of highways.

Section 3. KRS 177.366 is amended to read as follows:

(1) On and after July 1, 1973, the bureau of highways shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in said incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here means an area outside of incorporated cities which area has a population of 2,500 or more as shown by the most recent decennial census of the United States bureau of the census, and all populations shall be determined by the most recent decennial census of the United States.

(2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the municipal aid program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the bureau of highways with documentation from the United States bureau of census showing the population of the newly incorporated area as it existed at the time of the last decennial census.

(3) In the event the newly incorporated area cannot obtain a population count from the bureau of *the* census, it shall not be eligible to participate in the municipal aid program until the next decennial census.

(4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.

(5) It shall be the responsibility of the incorporated city to provide the bureau of highways with documentation from the United States bureau of census showing the population for the annexed area as it existed at the time of the last decennial census.

(6) In the event the incorporated area cannot obtain a population count from the bureau of census, the annexed area's population will not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas will be eligible to receive work through this program.

(7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the department of revenue and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the department of revenue.

(8) Whenever a city of any class proposes to annex any territory or reduce the boundaries of the city, the mayor, city manager, clerk of the board of aldermen, or clerk of the board of trustees shall forward a copy of the ordinance pertaining thereto to the bureau of highways within seven (7) days after its enactment and such officers shall also notify the bureau of highways of its finality within seven (7) days after such enactment

becomes final. Failure to observe either of the provisions of this section shall render the ordinance null and void.

Section 4. KRS 176.060 is amended to read as follows:

The department may stop or regulate all traffic over any road being constructed or improved until it is ready to be opened to the public, and may designate other roads for the accommodation of traffic until the construction is completed. The department may establish temporary roads while such construction is going on, and may make arrangements with landowners for necessary temporary rights of way, and may contract and pay for such rights of way out of appropriations from the state road fund by certifying the costs to the executive department for finance and administration. [The temporary road shall be opened for travel at least two (2) weeks before work is begun on the road proposed to be constructed or improved.]

Section 5. KRS 189.336 is amended to read as follows:

(1) Fiscal courts, with respect to school zones situated in unincorporated areas, may authorize by resolution installation at county expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(2) Cities, with respect to school zones within their incorporated areas, may authorize by ordinance installation at city expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(3) The speed limit on all highways where school flasher lights are in operation shall be *determined by the governmental unit having control of the highway where a school flasher light is in operation* [twenty-five (25) miles per hour]. Flasher lights shall be placed one-eighth (1/8) of a mile on each side of the principal school building where practical. The governmental unit *having control of the highway* where the lights are in operation shall erect signs notifying motorists of the speed limit.

(4) "Highways" as used in this section shall mean any public road or street maintained by a city, county or the state.

(5) Any traffic control devices erected by any governmental unit shall conform to standards and specifications authorized by KRS 189.337.

The Committee Amendment No. 1 to **HB 200** is as follows:

Amend printed copy of **HB 200,** page 1, between enacting clause and line 1, by adding the following sections:

Section 1. KRS 44.270 is amended to read as follows:

(1) Any person, firm or corporation, having a lawfully authorized written contract with the Commonwealth at the time of or after June 21, 1974, may bring an action against the Commonwealth on the contract, including but not limited to actions either for breach of contracts or for enforcement of contracts or for both. Any such action shall be brought in the *circuit court of the judicial circuit in which the claimant resides or has its principal place of business, or, if the claimant is a nonresident, in the* Franklin Circuit Court and shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the Commonwealth.

(2) If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.

Section 2. KRS 44.300 is amended to read as follows:

Appeals may be taken to the Court of Appeals from *the* [Franklin] Circuit Court under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by circuit courts.

and, on page 1, line 1, by changing "Section 1." to "Section 3.";

and, on page 1, lines 3 and 4, by placing brackets, " [ ]", around the word "Franklin" and by changing "Circuit Court" to "circuit court";

and, on page 1, lines 8 and 9, by deleting the word “*Franklin*” and by changing “*Circuit Court*” to “*circuit court*“;

and, on page 1, line 11, by changing “Section 2.” to “Section 4.“;

and, on page 2, line 11, by changing “Section 3.” to “Section 5.“;

and, on page 4, line 23, by changing “Section 4.” to “Section 6.“;

and, on page 5, line 13, by changing “Section 5.” to “Section 7.“.

The Committee Amendment No. 2 to **HB 200** is as follows:

Amend printed copy of **HB 200,** page 1, line TITLE by deleting the words “public roads and highways.” and inserting in lieu thereof the words “state and local governments.”

The Committee Amendment No. 3 to **HB 200** is as follows:

Amend printed copy of House Bill 200, page 4, line 16, by deleting the words “*pertaining thereto*” and inserting in lieu thereof the words “*proposing the change*“; and

on page 4, line 17, by deleting “*seven (7)*” and inserting in lieu thereof “*thirty (30)*“; and

on page 4, line 18, by deleting the word “*its*” and inserting in lieu thereof the word “*the*“; and

on page 4, line 19, by inserting, after “*finality*” and before “*within*“, the words “*of the annexation of territory or reduction in boundaries*“, and by deleting “*seven (7)*” and inserting in lieu thereof “*thirty (30)*“, and by deleting the word “*enactment*” and inserting in lieu thereof the word “*change*“; and

on page 4, line 20, by deleting the words “*Failure to observe either of the provi-*“; and

on page 4, by deleting lines 21 and 22 in their entirety.

The Committee Amendment No. 4 to **HB 200** is as follows:

Amend printed copy of **HB 200,** page 5, lines 13 through 26, by deleting lines 13 through 26; and

on page 6, by deleting lines 1 through 14.

The Committee Amendment No. 5 to **HB 200** is as follows:

SECTION 5. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Fiscal courts, cities and the bureau of highways may install flasher lights in school zones, of a color different from that prescribed under KRS 189.337 for school flasher lights installed in school zones under KRS 189.336.

(2) The speed limits on all highways where the flasher lights, permitted under subsection (1) of this section, are in operation shall be determined by the governmental unit having control of the highway where the flasher light is in operation. Flasher lights shall be placed one-eighth ($1/8$) of a mile on each side of the principal school building where practical. The governmental unit having control of the highway where the lights are in operation shall erect signs notifying motorists of the speed limit.

(3) “Highways” as used in this section shall mean any public road or street maintained by a city, county, or the state.

(4) The bureau of highways, in accordance with KRS 189.337, shall prescribe standards and specifications for flasher lights authorized by this section and any such flasher light installed by any governmental unit shall conform to the standards and specifications prescribed by the bureau.

HB 227, AN ACT relating to disasters and emergencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) When an emergency or disaster is declared pursuant to KRS 39.400 to 39.450, state agencies, counties, cities, urban-county governments, and their agents may, subject to subsection (2) of this section and for the duration of the state of emergency or disaster, enter upon private property within the area affected by the emergency or disaster for the purpose of removing hazards to life or health from such property. The provisions of any other law to the contrary notwithstanding, the state agency or local unit of government may utilize its personnel and equipment for the purpose of removing such hazards from private property.

(2) No state agency or unit of local government or their agents shall exercise the powers conferred by subsection (1) of this section unless such action is ordered by executive order of:

(a) The governor or his designee, in the case of action by a state agency or its agents;

(b) The county judge/executive or his designee, in the case of action by a county or its agents; or

(c) The chief executive officer of any city or urban-county government, in the case of action by a city or urban-county government or their agents.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) In the event that removal of a hazard to life or health under Section 1 of this Act results in taking of private property by a state agency or its agents, compensation for such damage shall be determined in accordance with KRS 39.410 to 39.413.

(2) In the event that removal of a hazard to life or health under Section 1 of this Act results in damage to private property by a county, city, or an urban-county government or their agents, the county judge/executive or the chief executive officer of such city or urban-county government shall, within ninety (90) days of the damage, fix the amount of compensation to be paid therefor.

(3) If the owner of the property damaged by a county, city, an urban-county government or their agents refuses to accept as adequate the compensation fixed by the county judge/executive or the chief executive of the city or urban-county government, he may appeal the county judge/executive's or chief executive's determination to the circuit court of the county in which he resides. The rules of civil procedure shall, insofar as applicable, govern the procedure on appeal, but the action shall be tried according to the practice prescribed for the trial of jury cases. An appeal from the judgment of the circuit court may be taken to the Court of Appeals.

HB 352, AN ACT relating to legislative program review and investigations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a legislative program review and investigations committee which shall be a permanent standing committee of the general assembly, consisting of six (6) members of the senate, four (4) of whom shall be appointed by the president pro tempore and two (2) of whom shall be appointed by the minority leader of the senate, and six (6) members of the house of representatives, four (4) of whom shall be appointed by the speaker and two (2) of whom shall be appointed by the minority leader of the house of representatives. At least one (1) appointee by each appointive authority shall be a member of the senate or house standing committee on appropriations and revenue. The appointments shall be made at the beginning of each regular session of the general assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman and other officers as it may deem necessary from among its membership. A majority of the membership shall constitute a quorum and all actions of the committee shall require the affirmative vote of a majority of the full committee membership.

(3) When an evaluation or investigation is instituted upon the request of a legislative committee, the chairman and a ranking minority member of that committee shall serve as non-voting ex-officio members of the legislative program review and investigations committee during the course of such evaluation or investigation. If the legislative committee that requested the evaluation or investigation is a standing committee of one (1) of the houses of the general assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee that requested the evaluation or investigation is an interim joint committee of the legislative research commission, the ranking minority member shall be:

(a) A minority party member of the house of representatives appointed by the house minority leader, if the chairman of the interim joint committee is a member of the senate; or

(b) A minority party member of the senate appointed by the senate minority leader, if the chairman of the interim joint committee is a member of the house of representatives.

(4) Each regular and ex-officio member of the legislative program review and investigations committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the legislative research commission under KRS 7.090(2).

SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The legislative program review and investigations committee shall have the power and duty to:

(1) Make performance reviews of operations of state agencies to ascertain that sums appropriated have been, or are being, expended for the purposes for which such appropriations were made and to evaluate the effectiveness of programs in accomplishing legislative intent;

(2) Study on a continuing basis the operations, practices and duties of state agencies, as they relate to efficiency in the utilization of space, personnel, equipment and facilities;

(3) Make such special studies and reports of the operations and functions of state agencies as it deems appropriate and as may be requested by the general assembly;

(4) Make such reports on its findings and recommendations at such time and in such manner as the committee deems proper, submitting such reports to the agencies concerned, to the governor and to the general assembly. Such reports shall relate to the following matters:

(a) Whether any state agency is carrying out only those activities or programs authorized by the general assembly; or

(b) Whether the programs and activities of a state agency, or a particular program or activity is being operated efficiently, effectively and in accordance with legislative intent; or

(c) Whether there is a need for change in any authorized activity or program of a state agency; or

(d) Whether any reorganization of a state agency, or group of state agencies, is needed or justified to accomplish the results of programs or activities authorized by the general assembly; or

(e) Any combination of the purposes specified in this or any other section of this Act.

(5) Consider and act on requests for program reviews submitted by legislators, legislative committees, elected officials of state government, state cabinet secretaries, and department and agency heads. Requests shall be submitted in writing and shall state reasons to support the request. The decision of the committee to grant or deny such a request shall be final;

(6) Conduct investigations directed by joint resolution of the general assembly;

(7) When the general assembly is not in session, conduct investigations:

(a) Initiated by a majority vote of the program review and investigations committee and approved by the legislative research commission; or

(b) Requested by the legislative research commission or an interim joint committee thereof. In the event two (2) or more investigations are requested, the priority among them shall be determined by the legislative program review and investigations committee.

SECTION 3. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

All agencies of the state, their staff and employes shall provide the legislative program review and investigations committee with necessary information for the performance of its duties, and shall afford the committee and its staff ample opportunity to observe agency operations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The legislative program review and investigations committee, while in the discharge of its official duties, shall have the following additional powers:

(1) To subpoena and examine witnesses; to require the appearance of any person and the production of any paper or document; to order the appearance of any person for the purpose of producing any paper or document; and to issue all process necessary to compel such appearance or production. When such process has been served, the committee may compel obedience thereto by the attachment of the person, papers or records subpoenaed; and if any person shall wilfully refuse to appear before such committee or to produce any paper or record in obedience to any process issued by the committee and served on that person, he shall be guilty of contempt of the general assembly and shall be prosecuted and punished as provided by law;

(2) To administer oaths to witnesses appearing before the committee when, by a majority vote, the committee deems the administration of an oath necessary and advisable as provided by law; and

(3) To determine that a witness has perjured himself by testifying falsely before the committee, and to institute appropriate penal proceedings as provided by law.

(4) Each witness who appears before the committee by its order, other than officer or employe of the state, shall be entitled to the fees and mileage provided for witnesses in civil cases in circuit courts, which

shall be audited and paid upon the presentation of proper vouchers sworn to by such witnesses and approved by the chairman of the committee.

SECTION 5. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

When making a performance evaluation or an expenditure review, the legislative program review and investigations committee may require that testimony be given under oath, which may be administered by the chairman or by any person authorized by law to administer oaths. The committee may require that such testimony or any proceedings of the committee be recorded by an official court reporter or other competent person, under oath. The transcript, when written, certified and approved by the recorder and transcriber as being the direct transcript of the testimony, or proceedings, shall be prima facie a correct statement of said testimony or proceedings provided that the recorder and transcriber's signature to such certificate is duly acknowledged by him before a notary public or a judicial official of the commonwealth.

SECTION 6. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person fails to appear before the legislative program review and investigations committee pursuant to the committee's subpoena or order under Section 4 of this Act or fails to make any record available to the committee, or an authorized officer or employe of the committee, within thirty (30) days after such appearance is ordered or record is requested, any state funds to which such person would otherwise be entitled by statute to receive shall be withheld until the person has fully complied with the order or request.

(2) The committee shall give written notice to the secretary of the executive department for finance and administration whenever state funds are to be withheld under this section. The secretary shall issue no warrant for payment of state funds to a person from whom state funds are to be withheld until the secretary receives written notice from the committee that such person has fully complied with its order or request.

(3) The provisions of this section shall not affect any contract entered into prior to the effective date of this Act to the extent that any impairment of such contract would thereby occur.

SECTION 7. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) In any instance in which a program review conducted by or for the legislative program review and investigations committee cites inadequate operating or administrative systems controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee shall report such deficiencies and its recommendations for their correction to the head of the state agency or program to which the report pertains.

(2) The head of the state agency or program to which the report pertains shall give affirmative consideration to the report by:

(a) Adopting the committee's recommendations and reporting his action to the committee; or

(b) Otherwise correcting the deficiency and reporting his action, and the reasons for not adopting the committee's recommendations, to the committee.

(3) If no corrective action is taken by the head of a state agency or program in response to a committee report under subsections (1) and (2) of this section, or if the committee deems the corrective action taken to be unsuitable, the committee shall report the matter to the general assembly, together with its recommendations.

(4) The committee shall report the results of each of its investigations, including the committee's recommendations for any further action, to the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The attorney general, or an assistant attorney general designated by him, and the auditor of public accounts shall assist the legislative program review and investigations committee in whatever manner the committee deems that such officers can be helpful. Furthermore, the director of the legislative research commission shall, on the request and with the advice and consent of the committee, employ stenographic help, technical experts, auditors, investigators and other employees which may be necessary to enable the committee to perform its duties under this Act. If requested by the committee, the director of the commission shall provide other administrative services to the committee.

SECTION 9. Whereas, in order to effect purposes of this Act, the members of the legislative program review and investigations committee must be appointed prior to sine die adjournment of the 1978 regular session of the general assembly, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 363, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.360 is amended to read as follows:

(1) The executive department for finance and administration shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the executive department for finance and administration food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, or artistic services (Contracts exempted by this provision shall be referred to the department of personnel for review and approval);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the executive department for finance and administration, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the executive department for finance and administration from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The executive department for finance and administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the *secretary* [commissioner] of the executive department for finance and administration, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the executive department for finance and administration may prescribe.

(4) The executive department for finance and administration shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The executive department for finance and administration shall conduct periodic physical audits of inventories.

(5) The executive department for finance and administration shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the executive department for finance and administration prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The executive department for finance and administration shall have power, with the approval of the *secretary* [commissioner] of the executive department for finance and administration, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the *secretary* [commissioner] of the executive department for finance and administration. The determination of the *secretary* [commissioner] of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the *secretary* [commissioner] of the executive department for finance and administration and approved by the governor. Unless the *secretary* [commissioner] of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department [of revenue], or *the* department of transportation for such requirements of that department.

(8) Except as provided in KRS chapters 175, 176, 177 and 180, the executive department for finance and administration shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the *secretary* [commissioner] of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department [of revenue], *or the* department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the executive department for finance and administration, based upon a written application by the head of the agency requesting the purchase, and approved by the *secretary* [commissioner] of the executive department for finance and administration and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the executive department for finance and administration in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS chapter 56.

(10) The executive department for finance and administration shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the *secretary* [commissioner] of the executive department for finance and administration, the governor, and the general assembly. The executive department for finance and administration shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the *secretary* [commissioner] of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids when delegated to and are received by construction managers shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The executive department for finance and administration shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The executive department for finance and administration shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products.

SB 77, AN ACT relating to the Kentucky national guard.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 38.500 is amended to read as follows:

(1) There is hereby established within the department of military affairs the Kentucky national guard educational encouragement fund.

(2) The adjutant general may authorize the payment from the fund established in subsection (1) of fifty percent (50%) of any matriculation or tuition fee, *but not more than two hundred and fifty dollars ($250) per term nor five hundred dollars ($500) within any twelve month period,* for each member of the active Kentucky national guard who is admitted to any [state supported] university, college, community college or vocational education school *located in Kentucky* as a full-time or part-time student.

(3) To be eligible to receive benefits from the fund, a person must be a member in good standing of the active Kentucky national guard at the beginning of and throughout the entire semester for which benefits are payable.

(4) The adjutant general shall, in accordance with KRS Chapter 13, make rules and regulations necessary for the administration of the fund established in subsection (1).

Section 2. KRS 61.396 is amended to read as follows:

All officers and employes of counties, municipalities, school districts or other political subdivisions of the state who are members of the national guard or of any reserve component of the armed forces of the United States, including the United States public health service, *shall* [may] be granted annual military leave by their respective employers as provided in KRS 61.394.

The Committee on Cities reported **HB 257,** with Committee Amendment attached thereto,with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 257, AN ACT relating to inspections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.605 is amended to read as follows:

As used in KRS 15.610 to 15.635 unless the context requires otherwise:

(1) "Inspection" means any regular, on-site investigation periodically conducted, or any request for information periodically solicited in lieu of an on-site investigation, by or on behalf of any public agency for the purpose of determining whether to award, renew, alter, suspend or revoke a license, permit, accreditation or rating of a public or private organization, or of any property employed by a public or private organization in conducting its business, in the Commonwealth. The term shall not include *inspections conducted by or on behalf of an urban county government or* special investigations conducted by law enforcement officers or grand juries, or, upon specific complaint, by public agencies with competent jurisdiction of the subject matter of the complaint, or by members of legislative bodies.

(2) "Duplicative inspection" or "an inspection that duplicates" means one of two or more inspections that are conducted at different times during the same calendar year and that inquire into the same condition of the premises of, or business conducted by, the same public or private organization.

(3) "Inspecting agency" means any agency of the state government or of a political subdivision of the state, *other than an urban county government,* that conducts inspections within the Commonwealth.

(4) "Conflicting standard" or "a standard that conflicts" means one of two or more standards relating to the quality of a public or private organization, or of the business conducted by such organization, or of property used by such organization in conducting its business, that are employed in the same inspection or in duplicative inspections and which cannot be met simultaneously.

The Committee Amendment to **HB 257** is as follows:

Amend printed copy of **HB 257,** page 1, line 15, after the word "*county*" by deleting the word "government" and inserting in lieu thereof the following: "*department of health*";

and on page 2, line 7, after the word "*county*" by deleting the word "*government*" and inserting in lieu thereof the following: "*department of health*"

The Committee on Rules reported **HB 150, HB 156, HB 165, HB 180, HB 182, HB 285, HR 27, HR 28, HCR 33, HR 36,** and **SB 76** have been posted for passage in Orders of the Day, February 10, 1978.

The Committee on Rules reported **HB 17,** and **HB 241** have been recommitted to the Committee on Appropriations and Revenue for fiscal analysis.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 388.**

Counties and Special Districts: **HB 372.**

State Government: **SB 79.**

Judiciary-Statues: **SB 90.**

Calendar

HB 118, SB 43, SB 104, HB 59, HB 269, HB 298, HB 304, HB 355, SB 69, HB 9, HB 39, and **HB 10** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of membes elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Haering, **HB 403;** Representative Hurst, **HB 403;** Representative Kenton, **HB 44.**

Representative Williams moved the adoption of the following Legislative Citation No. 32:

The House of Representatives hereby congratulates Representative Bob Benson as the outstanding recipient of the Bellarmine Alumnus Award. The criteria for selection is based upon the individual who makes the greatest contribution to the educational and cultural growth of the Institution, whose integrity and exemplary life have earned the respect of his fellowman and that he has utilized his talents in making his community a better place in which to live. We applaud our colleague, Representative Bob Benson, for his excellent leadership and life of dedication. (Sponsored by Representative Williams)

Agreed.

The Clerk announced the filing of the filing Floor Amendments to Bills and Resolutions:

Floor Amendment No. 3 to **HB 143** by Representative B. Richardson and Bruce.

Floor Amendment No. 1 to **HB 234** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 265** by Representative Boswell.

Orders of the Day

HB 53 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 53** be passed.

On the roll call the vote was yeas 53-J. Allen, Arnold, Bendl, Bennett, Beshear, Blythe, Boswell, Brown, Burch, Carpenter, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Haering, Head, Hines, Isler, Johnso, Kenton, Kidd, Kleier, LeMaster, List, Mann, McBee, McNutt, Noe, Petty, Priddy, Rattliff, Richards, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Thomas, Trevey, Turner, Van Horn, Weinberg, Wilborn, Worthington, Wright, Yates. Nays 25-W. Allen, Blandford, Boatwright, Brinkley, Burnette, Clarke, Cyrus, Deskins, Foster, Gray, Guy, Hurst, Imes, Jones, Layman, Lindsay, Little, Marcu, O'Brien, Pearman, Plummer, B. Richardson, Stone, Tobin, Williams.

HB 53 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 53** was passed be reconsiderd and said motion be postponed indefinitely. Agreed.

The Speaker resumed the Chair.

HB 89 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 89** be passed.

On the roll call the vote was yeas 84-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Burch.

HB 89 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 89** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 201, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Carpenter moved the adoption of Floor Amendment No. 2 to **HB 201.**

Representative Carpenter moved that **HB 201** be laid on the Clerk's desk. Agreed.

HB 43, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Amendment No. 1 to **HB 43.** Agreed.

Representative Blythe moved that **HB 43** as amended be passed.

On the roll call the vote was yeas 53-Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Carpenter, Clarke, Cyrus, Davenport, Dawhare, DeFalaise, Dietz, Dunn, Fitgerald, Gray, Guenthner, Haering, Hancock, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, LeMaster, List, Mann, Maynard, McNutt, Nett, O'Brien, Overstreet, Petty, Priddy, Richards, B. Richardson, Riner, Romines, Schmidt, Siemens, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Yates. Nays 33-Adams, Brinkley, Bruce, Burch, Burnette, Clapp, Craddock, DeMarcus, Deskins, Foster, Gay, Guy, Head, Imes, Kidd, Kleier, Layman, LIndsay, Little, Marcum, May, McBee, McKinney, Morris, Noe, Pearman, Plummer, F. Smith, R. Smith, Stone, Thomas, Tobin, Turner, Worthington.

HB 43, as amended, was passed and the title agreed to.

Representative Blythe moved that the vote by which **HB 43,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 201** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

HB 201 taken from Orders of theDay. Representative B. Richardson moved that it be passed.

Representative Carpenter moved the adoption of the following Floor Amendment No. 2 to **HB 201:**

Amend printed copy of **HB 201,** page 1, line 1, delete lines 1 through 21 in its entirety;

page 2, line 1, delete lines 1 through 26 in its entirety;

page 3, line 1, delete line 1;

page 3, line 2, “Section 2” becomes “Section 1“;

page 3, line 20, “Section 3” becomes “Section 2“;

page 5, line 16, “Section 4” becomes “Section 3“.
Agreed.

Represenative Carpenter moved that **HB 201** as amended be passed.

On the roll call the vote was yeas 84-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 5-Blythe, Boswell, Burnette, Layman, Williams.

HB 201, as amended, was passed and the title agreed to.

Representative Carpenter moved that the vote by which **HB 201,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 29** had been examined and found correctly enrolled. **SB 29** read at length, compared, and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 44, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Substitute to **HB 44.** Agreed.

Representative B. Adams moved the adoption of the following Floor Amendment No. 1 to Hb 44:

Amend printed copy of Committee Substitute for **HB 44,** page 24, line 18, by deleting the word "contract" and substituting in lieu thereof the word "associate";

and on page 24, line 20, byinserting after the word "agencies" the words "or area development districts;

and on page 24, line 21, by deleting the word "agencies" the words "or area development districts:;

and on page 24, line 21, by deleting the word "such";

and on page 24, lines 22 and 23, by deleting them in their entirety.

Agreed.

Representative Hancock moved that **HB 44,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 65-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Bruce, Burch, Carpenter, Clapp, Clarke, Cyrus, DeFalaise, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Mann, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, Thomas, Trevey, Van Horn, Wilborn, Williams, Worthington, Wright, Yates. Nays 21-W. Allen, Brinkley, Brown, Burnette, Crupper, Davenport, Dawahare, Deskins, Layman, Little, Marcum, McKinney, Overstreet, Patrick, Plummer, Robinson, R. Smith, Stone, Tobin, Turner, Weinberg.

HB 44, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 44,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 147 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of member selected.

Representative Stone moved that **HB 147** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Kidd.

HB 147 was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 147** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 166 taken from Orders of the Day and ordered read at length for the third time. Representative Wells moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 166** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 1-DeFalaise.

HB 166 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 166** wa spassed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative Wells moved that consideration of **HB 171** and **HB 173** be deferred and that they retain their position in Orders of the Day. Agreed.

SB 51 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **SB 51** be passed.

On the roll call the vote was yeas 80-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, P. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Wright. Nays 5-J. Allen, W. Allen, Burnette, Pearman, Richards.

SB 51 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **SB 51** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 173 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dietz moved that **HB 173** be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright. Nays-0.

Representative Dietz moved thatthe vote by which **HB 173** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 171 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 91-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 2-Blythe, Lindsay.

HB 171 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 171** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion concerning the Orders of the Day. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Representative Imes moved that the rules be suspended for the purpose of making a motion concerning his voting. Agreed.

Representative Imes moved that he be recorded as voting "yea" on **HB 44** Agreed.

Representative Boswell moved that therules be suspended for the purpose of making a motion concerning a vote change. Agreed.

Representative Boswell moved that his vote on **HB 201** be changed from "nay" to "yea". Agreed.

Representative Foster requested that the rules be suspended for the purpose of making a motion concerning his voting. Agreed.

Representative Foster requested that he be recorded as voting "yea" on **HB 140.** Agreed.

HB 463, by Representatives Nett, Wells and DeMarcus: AN ACT relating to the office of state archaeologist and making an appropriation therefor.

HB 464, by Representatives Van Horn and Bennett: AN ACT relating to trade practices.

HB 465, by Representatives Clarke and O'Brien: AN ACT relating to conflicts of interest of public officers and employes.

HB 466, by Representatives Clarke, O'Brien, and Jones: AN ACT relating to motor vehicles.

HB 467, by Representative Williams: AN ACT relating to the court of justice.

HB 468, by Representatives Nett, DeMarcus, and Wells: AN ACT relating to the custodial authority of the Kentucky Historical Society for the Old State Capitol Building.

HB 463, by Representatives Nett, Wells and DeMarcus: AN ACT relating to the office of state archaeologist and making an appropriation therefor.

HB 464, by Representatives Van Horn and Bennett: AN ACT relating to trade practices.

HB 465, by Representatives Clarke and O'Brien: AN ACT relating to conflicts of interest of public officers and employes.

HB 466, by Representatives Clarke, O'Brien, and Jones: AN ACT relating to motor vehicles.

HB 467, by Representative Williams: AN ACT relating to the court of justice.

HB 468, by Representatives Nett, DeMarcus, and Wells: AN ACT relating to the custodial authority of the Kentucky Historical Society for the Old State Capitol Building.

HB 469, by Representatives Guenthner, Imes, W. Allen, Carpenter, Davenport, Dawahare, DeFalaise, DeMarucs, Deskins, Fitzgerald, Holbrook, Holloway, Hurst, Jones, Marcum, McKinney, Nett, O'Brien, Overstreet, Patrick, Plummer, Priddy, Rattliff, Riner, Romines, Schmidt, R. Smith, Trevey, and Yates: AN ACT relating to activities, state agencies and institutions in competation with private enterprise.

HR 48, by Representative Clarke: AN CONCURRENT RESOLUTION petitioning the United State Congress and President to institute an alliance among all levels of government to create a unified program of income security.

Report of Committees

The Committee on State Government reported **HB 261** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 261, AN ACT relating to public purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 247 of the Constitution of Kentucky, and any other provision of law to the contrary notwithstanding:

(1) All offices, departments, institutions, agencies, political subdivisions, cities, counties and special districts of the state shall purchase, whenever feasible, first, required products and articles that are made in Kentucky, and, secondly, required articles and products that are made in the United States of America, if:

(a) The price of such Kentucky-made article or product is not more than ten percent (10%) more costly than a non-American-made article or product of comparable quality; or

(b) The price of such Kentucky-made article or product is not more than five (5%) more costly than a non-Kentucky but American-made article or product of comparable quality; or

(c) The price of such non-Kentucky but American-made article or product is not more than five percent (5%) more costly than a non-American-made article or product of comparable quality.

(2) Whenever a law shall require any of the above-enumerated public entities to purchase required articles or products at the lowest price (as when such entity is required to award a contract for purchase to the lowest and best bidder) such entity shall take into consideration, first, whether the article or product is Kentucky-made, and, secondly, whether the article or product is American-made, as follows:

(a) The price of a Kentucky-made article or product shall be considered the lowest price (and, consequently, the bid offering same the lowest bid) if the price is not more than ten percent (10%) more costly than the price of a non-American-made article or product of comparable quality which would, but for this Act, be the lowest price;

(b) The price of a Kentucky-made article or product shall be considered the lowest price (and, consequently, the bid offering same the lowest bid) if the price is not more than five percent (5%) more costly than the price of a non-Kentucky but American-made article or product of comparable quality which would, but for this Act, be the lowest price;

(c) The price of a non-Kentucky but American-made article or product shall be considered the lowest price (and, consequently, the bid offering same the lowest bid) if the price is not more than five (5%) more costly than the price of a non-American-made article or product of comparable quality which would, but for this Act, be the lowest price.

(3) The provisions of this Act shall not apply to services.

(4) The provisions of this Act shall not apply where the purchase involves the use of federal funds.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HR 43.**

Health and Welfare: **HB 20, HB 218, HCR 29, HB 407.**

Labor and Industry: **HB 276.**

State Government: **HB 292, HCR 8** withdrawn from consideration.

Announcements (continued)

The Clerk announced the following meetings:

Committee on Rules, five minutes after adjournment.

The Committee on State Government, February 15, 1978, noon; Thursday, February 16, 1978, noon, Room C.

The Committee on Appropriations and Revenue, February 10, 1978, noon, Room A.

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 10, 1978.

On the roll call the vote was yeas 57-Adams, Arnold, Bendl, Bennett, Beshear, Blythe, Boatwright, Boswell, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Haering, Hancock, Head, Hines, Holbrook, Isler, Jones, Kenton, Kleier, Layman, LeMaster, Mann, Marcum, May, McBee, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Richards, B. Richardson, Robinson, Schmidt, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington. Nays 6-Fitzgerald, Gray, Guenthner, Holloway, Imes, Priddy.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 10, 1978

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Clapp.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The roll was called. All present except Representatives Mann, Maynard, R. Smith, and White.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 9, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 470, by Representative Blythe: AN ACT relating to banks.

HB 471, by Representative Bruce: AN ACT relating to assets and liabilities of insurance companies.

HB 472, by Representative McNutt: AN ACT relating to defrauding judgment creditors.

HB 473, by Representative DeFalaise: AN ACT relating to barbers and cosmetologists.

Senate Message

Announcing passage of **SB 71, SB 92, SB 118, SB 172, SB 177, HB 48** with amendment, **HB 72.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 451.**

Banking and Insurance: **HB 445.**

Business Organizations and Professions: **HB 455, HB 464.**

Cities: **HB 461.**

Counties and Special Districts: **HB 456, HB 458.**

Education: **HB 459.**

Elections and Constitutional Amendments: **HB 454, HB 460.**

Health and Welfare: **HB 457.**

Highways and Traffic Safety: **SB 114.**

Judiciary-Courts: **HB 467.**

Judiciary-Statutes: **HB 452, HB 453.**

Public Utilities: **HB 466.**

State Government: **HB 446, HB 447, HB 448, HB 449, HB 450, HB 462, HB 463, HB 465, HB 468, HB 469, HR 48, SB 150.**

Report of Committees

The Committee on Rules reported **HB 39, HB 245, HB 215, HB 318, HCR 7, SB 43**, **SB 69** have been posted for passage in Orders of the Day, February 14, 1978.

The Committee on Rules reported **HB 9** has been recommitted to the Committee on Judiciary-Courts.

The Committee on Education reported **SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 21, SB 25, SB 26, SB 27, SB 31, SB 33, SB 38, SB 41** and **SB 42** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 8, AN ACT relating to the superintendent of public instruction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.130 is amended to read as follows:

The superintendent of public instruction shall be the executive officer *and the professional advisor* of the state *boards for elementary and secondary* [board of] education *and the state board for occupational education* in *the* [its] administration of all public education placed under *their* [its] management and control, and shall perform such duties as are assigned to him by the *boards* [board]. He shall be responsible for the administration of the department of education. He shall execute, under the direction of the state *boards* [board of education], the educational policies decided upon by the *boards* [board], and shall direct, under general rules and regulations adopted by the *boards* [board], the work of all persons engaged in the administration of the common schools and public vocational education and vocational rehabilitation. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

SB 9, AN ACT relating to the professional practices commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.510, 156.520, 156.530, 156.540, and 156.550 are hereby repealed.

SB 11, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.010 is amended to read as follows:

(1) A uniform system of common schools shall be maintained in Kentucky.

(2) *Local school districts may, with approval of local boards of education,* [County school districts in a county having 300,000 or more inhabitants are authorized to] provide special programs and services to one *or more areas* [area] of the district in contrast to other areas where the variation is a reasonable one based on an attempt to equalize the education progress of the students within the district.

SB 12, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.100 is amended to read as follows:

(1) Each county school district shall provide at least an approved twelve (12) grade school service. An approved eight (8) grade service for all pupils residing in the district shall be provided by maintaining the schools [or by contract with another district]. An approved high school service for all children of high school grade under twenty-one (21) years of age residing in the district shall be provided either by maintaining the schools within the county or by contract with *another* [an independent] district [within the county].

(2) Each independent school district shall provide at least an approved twelve (12) grade school service. An approved eight (8) grade school service shall be provided for the children residing in the district by maintaining schools. An approved high school service for all children of high school grade under twenty-one

(21) years of age residing in the district shall be provided either by maintaining the schools within the district or by contract with another [independent] district in the county.

[(3) If the number of pupils of high school grade below twenty-one (21) years of age in any county or independent district is not sufficient to maintain a high school, the board shall provide high school service by contract with another county or independent district that maintains an approved high school, and shall furnish daily transportation to the high school, or in lieu of transportation shall provide for the board and room of the pupils within reasonable walking distance of such school if it is found more feasible or more economical to do so. The board and room shall not cost more than one hundred dollars ($100) per annum for any pupil.

(4) The board of education of an independent district embracing a city of the third class may contract with any private institution, which offers a course of study approved by the state board of education as an accredited high school course in commercial subjects, for the instruction of students residing in the district. The contract shall provide the amount, manner and time of payments for the instruction.]

SB 14, AN ACT relating to the common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.990 is amended to read as follows:

[(1) Any person who violates any of the provisions of KRS 158.180 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than thirty (30) days nor more than six months, or both.

(2) Failure of a teacher to conform to KRS 158.170 is cause for revocation of his certificate.

(3)] Any member of a school board who votes to permit entrance to a school of any child not eligible therefor under the provisions of KRS 158.030 shall be fined not less than five dollars ($5.00) nor more than fifty dollars ($50.00).

Section 2. KRS 158.180 is hereby repealed.

SB 15, AN ACT relating to parental or truant schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.190, 159.200, 159.210, 159.220, and 159.230 are hereby repealed.

SB 18, AN ACT relating to school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.270 is amended to read as follows:

(1) Each board of education shall hold at least one (1) regular meeting each month, at a time and place fixed by the board. Special meetings may be called by the chairman. On request of three (3) members of the board the secretary shall call a special meeting. Each member of the board shall have timely notice of each meeting and the nature, object and purpose for which it is called. Any board member failing to attend three (3) consecutive regular meetings, unless excused by the board for reason satisfactory to it, shall be *removed from office pursuant to KRS 415.050 and 415.060* [deemed to have vacated his office]. A majority of the board shall constitute a quorum for the transaction of business.

(2) The secretary shall be present at the meetings of the board *except when his own tenure, salary or the administration of his office is under consideration* and shall record in a book provided for that purpose all its official proceedings, which shall be a public record open to inspection.

SB 19, AN ACT relating to school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.280 is amended to read as follows:

Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of [fifteen dollars ($15.00) in the 1977 fiscal year and] twenty dollars ($20.00) in *any* *calendar* [the 1978 fiscal] year, and their actual expenses for each regular or special meeting attended, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(3), shall receive a per diem of forty dollars, and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed [three hundred dollars ($300) in the 1977 fiscal year and] four hundred dollars ($400) in *any calendar* [the 1978 fiscal] year [and years thereafter], except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS. 160.210. Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board. In no case shall the expenses incurred within the district or per diem of any member exceed one thousand dollars ($1,000) per *calendar year* [annum] . All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

SB 20, AN ACT relating to local school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.290 is amended to read as follows:

(1) Each board of education shall have general control and management of the public schools in its district and may establish such schools and provide for such courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the rules and regulations of the state board of education. Each board shall have control and management of all school funds and all public school property of its district and may use such funds and property to promote public education in such ways as it deems necessary and proper. Each board shall exercise generally all powers in the administration of its public school system, appoint such officers, agents and employes as it deems necessary and proper, prescribe their duties, and fix their compensation and terms of office.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations and bylaws for its meetings and proceedings for the government, regulation and management of the public schools and school property of the district, for the transaction of its business, and for the qualification and employment of teachers and the conduct of pupils. The rules, regulations, and bylaws heretofore made by any governing body of a school district, or hereafter made by a board of education, shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of *a majority of the* [three (3)] members of the board. The rules, regulations and bylaws shall be spread on the minutes of the board and be open to the public.

SB 21, AN ACT relating to local school boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.330 is amended to read as follows:

Each board of education may furnish [textbooks and other] necessary school supplies free of charge to indigent children in its school district [, including indigent children in high schools or lower grades,] or to such other children as it deems advisable, under such rules and regulations as it may adopt. [The superintendent shall report to the tax levying authority of the district the number and cost of textbooks and school supplies needed by the indigent school children of the district, and the tax levying authority shall appropriate a sum of money sufficient for the purchase of textbooks and school supplies for such children. The sum appropriated annually by the tax levying authority shall not be less than two hundred dollars ($200) in a county school district and fifty dollars ($50.00) in an independent school district.]

SB 25, AN ACT relating to local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.560 is amended to read as follows:

(1) Each board of education shall elect a treasurer for the board. The board may elect its secretary to serve as treasurer. The board may remove the treasurer from office at any time for cause by a vote of *a*

majority of the [three (3)] members of the board.

(2) The treasurer shall execute an official bond for the faithful performance of the duties of his office, to be approved by the local board and the state board of education. The bond shall be guaranteed by a surety company authorized to do business in this state, and shall be in an amount determined by the board of education in accordance with the rules and regulations of the state board of education. The premium on the bond shall be paid by the board of education. A copy of the bond shall be filed with the board of education and with the state board of education. All treasurer's bond forms shall be prepared by the superintendent of public instruction and approved by the state board of education.

(3) The treasurer shall receive all moneys to which the board is entitled by the constitution or by the statutes, except as otherwise provided by law, or which may in any way come into its possession, and deposit such funds in the properly designated depository. He shall withdraw such funds from the depository only upon proper order of the board. He shall keep a full and complete account of all funds in such manner and make such reports concerning them as is required by the board of education or by the state board of education. He shall preserve all records relating to the transactions and duties of the office and turn them over to his successor along with all public funds in his hands and all accounts and records after due and proper audit is made by a competent outside agent when he is required to do so by the board of education.

(4) The treasurer shall issue his check on the depository for payment of all legal claims which have been authorized for payment in accordance with rules and regulations previously adopted by the local board of education and approved by the state board of education.

SB 26, AN ACT relating to certification of school personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120:

(1) "Standard college or university" means an institution *accredited by* [that is a member of] the *Southern* Association of Colleges and *Schools or by one of the other recognized regional accrediting agencies or by the Kentucky Department of Elementary and Secondary Education* [Universities of the Southern States, the American Association of Teachers Colleges, or the Kentucky Association of Colleges and Universities, or that is recognized as an accredited four (4) year institution by the University of Kentucky].

(2) "Standard college or university work of graduate grade" means *academic preparation that extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at* [approved work in] a standard college or university *accredited for the graduate level* [that has a program of work extending beyond four (4) years of college or university work].

(3) ["Semester" means eighteen (18) weeks (one-half (1/2) year) of standard college or university work.

(4) "Semester hour" means one (1) academic or college hour per week for one (1) semester.

(5)] "Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(4) [(6)] "Para-professional" means an adult school employe who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his training and competency, certain instructional and noninstructional functions in the school program as are illustrated by, but not limited to: clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, preparing and organizing instructional materials and equipment.

(5) [(7)] "Teacher aide" shall be defined synonymously with para-professional.

SB 27, AN ACT relating to certification of school personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.020 is amended to read as follows:

(1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, *director of pupil personnel* [attendance officer], or other public school position for which certificates may be issued, or receive salary for services rendered in such position, unless he holds a certificate of legal qualifications for such position.

(2) No person shall enter upon the duties of a position requiring certification qualifications until his certificate has been filed or credentials registered with the board of education employing him.

(3) The validity *and terms for the renewal* of any certificate [or license in force on June 14, 1934 is not impaired by the provisions of KRS 161.020 to 161.120, and such certificate or license] shall be *determined by the laws and regulations in effect at the time the certificate was issued* [reissued or renewed in accordance with the terms of the law applying at the date of issue].

Section 2. KRS 161.120 is amended to read as follows:

Any certificate issued under KRS 161.010 to 161.110, or any certificate or license issued under any previous law to superintendents, principals, teachers, supervisors, *directors of pupil personnel* [attendance officers] or other administrative, supervisory or instructional employes may be revoked by the state board of education, on the written recommendation of the superintendent of public instruction, for immorality, misconduct in office, incompetency or wilful neglect of duty, *or upon the determination that a certificate applicant presented or declared false information toward obtaining the issuance or renewal of any type of teacher certification.* Before the certificate is revoked the defendant shall be given a copy of the charges against him and an opportunity, upon not less than ten (10) days' notice, to be heard in person or by counsel.

Section 3. KRS 161.035 and 161.110 are hereby repealed.

SB 31, AN ACT relating to termination of contract by teacher or superintendent.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.780 is amended to read as follows:

No teacher or superintendent shall be permitted to terminate his contract within thirty (30) days prior to the beginning of his school term without the consent of the board; any such teacher or superintendent shall be permitted to terminate his contract at any other time when schools are not in session by giving *two (2) weeks'* [five (5) days'] written notice to the employing board of education. Upon complaint by the employing board to the state superintendent of public instruction and after investigation by him, the certificate of a teacher or superintendent terminating his contract in any other manner than provided in this section may be suspended for not more than one (1) year.

SB 33, AN ACT relating to contracts by local boards of education for buildings, improvements, and materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 162.070 is amended to read as follows:

The contracts for the erection of new school buildings, additions and repairs to old buildings, except additions or repairs not exceeding *five thousand dollars ($5,000)* [twenty-five hundred dollars ($2,500)], shall be made by the board of education to the lowest and best responsible bidder complying with the terms of the letting, after advertisement for competitive bids pursuant to KRS chapter 424, but the board may reject any or all bids. All necessary specifications and drawings shall be prepared for all such work. The board shall advertise for bids on all supplies and equipment that it desires to purchase, except where the amount of the purchase does not exceed *five thousand dollars ($5,000)* [twenty-five hundred dollars ($2,500)], and shall accept the bid of the lowest and best bidder, but the board may reject any and all bids.

SB 38, AN ACT relating to local boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.455 is hereby repealed.

SB 41, AN ACT relating to financial analyses of school systems in counties of 300,000 inhabitants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.462 is hereby repealed.

SB 42, AN ACT relating to retirement plans for non-instructional school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.841 is hereby repealed.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Banking and Insurance: **HB 130, HB 133.**

Appropriations and Revenue: **HB 248, HB 210, HB 223, HB 277, HB 296.**

Counties and Special Districts: **HB 393.**

Calendar

HB 345, HB 367, HB 406, HR 21, SB 68, SB 84, SB 101, SB 117, HB 111, HB 242, HB 135, HB 98, HB 102, HB 179, HB 186, SB 58, HB 199, HB 259, HR 41, HJR 20, HB 257, HB 157, HB 200, HB 227, HB 352, HB 363, SB 77, and **HB 261** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Richards, **HB 468;** Representative Thomas, **HB 143.**

Recess

Representative B. Richardson moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

The Committee on Committees appointed the following members to investigate materials distributed to members: Representatives McNutt (Chairman), DeMarcus, and Wells.

Representative Benson moved the adoption of the following Legislative Citation No. 15:

The House of Representatives hereby commends the Courier Journal and Louisville Times Newspaper Carriers of Metropolitan Louisville and Jefferson County area for their extraordinary courage and loyalty in the delivery of the newspapers during the record-breaking and devastating weather. In spite of perilous conditions of massive snowfalls, icy and hazardous streets and roads, frigid weather, "Stay Home" advisory, closing of schools, business and industries, undaunted courage enabled the newspaper carriers to continue their services. We salute them for their fortitude and dedication. (Sponsored by Representative Benson)

Agreed.

Orders of the Day

HB 165, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of Floor Amendment No. 1 to **HB 165.**

Amend printed copy of **HB 165,** page 1, line 6, by inserting after the word "*education*" and before the comma "*that have jurisdiction over annual budgets exceeding $50,000,000*"

and on line 8, by removing the bracket

and on line 9, by removing the bracket and by inserting between the word "education" and the comma "*that have jurisdiction over annual budgets of $50,000,000 or less*"

On the roll call the vote was yeas 28-J. Allen, Bennett, Benson, Boswell, Crupper, Cyrus, Davenport, Dunn, Gray, Hancock, Hurst, Jones, Kleier, LeMaster, Marcum, McKinney, Nett, Noe, Pearman, Priddy, Richards, P. Richardson, Riner, Romines, Sale, Thomas, Trevey, Van Horn. Nays 30-Adams, W. Allen, Blythe, Carpenter, Clarke, DeFalaise, Deskins, Fitzgerald, Foster, Guenthner, Guy, Haering, Holbrook, Holloway, Imes, Isler, Johnson, Kidd, List, Little, May, McBee, Plummer, Schmidt, Tobin, Turner, Weinberg, Wilborn, Wright, Yates.

The Floor Amendment No. 1 to **HB 165** was rejected.

Representative Isler moved that **HB 165** be passed.

On the roll call the vote was yeas 51-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Burch, Carpenter, Clarke, Craddock, DeFalaise, Deskins, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Haering, Hines, Holloway, Hurst, Imes, Isler, Kidd, Kleier, Layman, LeMaster, List, Little, McBee, Morris, Nett, O'Brien, Pearman, Plummer, Rattliff, Richards, Riner, Romines, Schmidt, Siemens, F. Smith, Stewart, Thomas, Tobin, Trevey, Van Horn, Williams, Worthington, Yates. Nays 39-J. Allen, W. Allen, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Gay, Gray, Guy, Hancock, Head, Holbrook, Johnson, Jones, Lindsay, Marcum, May, McKinney, Noe, Patrick, B. Richardson, P. Richardson, Robinson, Sale, Stone, Turner, Weinberg, Wells, Wilborn, Wright.

HB 165 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 165** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 143 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the floowing Floor Amendment No. 3 to **HB 143:**

Amend printed copy of **HB 143,** page 7, by inserting following line 18 the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
As used in this Act these words shall have the following meaning:
(1) "Agricultural land" means that real estate which is defined in KRS 132.010(7).
(2) "Horticultural land" means that real estate which is defined in KRS 132.010(8).
(3) "Agricultural or horticultural value" means the value as defined in KRS 132.010(9).
(4) "Qualified real estate" means real property which:
(a) Is either horticultural or agricultural land;
(b) Has been used for agricultural or horticultural purposes for five (5) years prior to the death of the owner of the real estate or a joint owner thereof; and
(c) Fair cash value exceeds fifty percent (50%) of the gross taxable estate of decedent for Kentucky inheritance tax purposes.

(5) "Qualified person" means the spouse of and/or the children (including adopted children) of and their spouses, if any of a deceased owner of agricultural or horticultural land and is a person(s) who propose to devote the real property to agricultural or horticultural purposes for at least five (5) years after the death of the decedent in whose estate the agricultural or horticultural land is subject to assessment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
Agricultural or horticultural land may be assessed at its agricultural or horticultral value in a decedent's estate for Kentucky inheritance tax purposes if the agricultural or horticultural land is qualified real estate and is passing to a qualified person or persons.

SECTION 7. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
In the event a qualified person sells, conveys, or otherwise transfers the ownership, directly or indirectly, of the qualified real estate to any person or persons other than another qualified person who is a joint owner or the qualified real estate is converted to a use other than agricultural or horticultural use, then the qualified persons to whom the property passed at the death of the decedent in whose estate the agricultural or horticultural value shall cause to to be paid, pursuant to regulations issued by the Department of Revenue, the additional inheritance tax that would have been due on the decedent's estate if fair market value had been used to compute the tax due on the estate rather than the agricultural or horticultural value, along with interest on the unpaid tax at the rate of 8% per annum.

SECTION 8. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
In the event, the qualified real estate is reported for inheritance tax purposes at its agricultural or horticultural value and that real estate has been assessed at its agricultural or horticultural value for ad valorem tax purposes then that assessment shall be presumed to be its agricultural or horticultural value for inheritance tax purposes. If, however, the real estate has not been so accessed for ad valorem tax purposes then the agricultural or horticultural value shall be determined pursuant to KRS Chapter 132 and such regulations as may be promulgated by the Department of Revenue to determine horticultural or agricultural value for inheritance tax purposes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
The person responsible for filing the inheritance tax return for a decedent's estate and who elects to report qualified real estate at its agricultural or horticultural value shall in addition report the fair market value of the qualified real estate.

SECTION 10. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
At such time as the Department of Revenue accepts the agricultural or horticultural value on qualified real estate comprising a portion of a decedent's estate and issues tax waivers thereon, it shall cause to be filed in the office of the county court clerk of the county where the real estate or the greater portion thereof is located, on a form prescribed by the Department of Revenue, a lien which on its face shall expire in five (5) years and the lien shall secure the payment of any additional tax which may become due as the result of the qualified real estate being sold to others than qualified persons or the qualified real estate being converted to other than a qualified use.

If additional taxes are due as the result of the real estate being transferred to other than a qualified person or its use is converted to other than agricultural or horticultural use, and the additional tax is not paid after assessment of the tax, within the time prescribed by the regulations of the Department of Revenue, then the Department of Revenue may proceed to enforce the lien in accordance with law.

SECTION 11. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:
No gross estate shall be reduced by more than $500,000 as a result of the provisions of this Act.

Section 12. Sections 5 through 12 of this Act shall become effective on July 1, 1978, and shall expire on June 30, 1980."

Agreed.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 2 to **HB 143:**

Amend printed copy of **HB 143,** pages 4 and 5, by deleting the brackets at the beginning of line 23 on page 4 and at the end of line 1 on page 5.

On the roll call the vote was yeas 12-W. Allen, Blythe, Boatwright, DeFalaise, Guenthner, Haering, Holbrook, Holloway, Patrick, Robinson, Schmidt, Trevey. Nays 68-Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Hancock, Head, Hurst, Imes, Isler, Johnson, Kidd, LeMaster, List, May, McNutte, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Richards, B. Richardson, P. Richardson, Riner, Romines Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthing, Wright, Yates.

The Floor Amendment No. 2 to **HB 143** was rejected.

On the roll callthe vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Robinson, Schmidt.

HB 143, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 143,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 156, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HB 156.** Agreed.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 156:**

Amend printed copy of Committee Substitute for **HB 156,** on page 1, line 4, by inserting after the word "courts" the following: ", provided sufficient funds are available as provided in subsection (3) of this Section,"

and on page 2, line 2, by inserting after the word "instruction" the following: ", provided sufficient funds are available as provided in subsection (3) of this Section,"

Agreed.

Representative Riner moved that **HB 156,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Layman, LeMaster, Lindsay, List, Little, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Worthington, Wright, Yates. Nays 4-Clarke, Fitzgerald, Wilborn, Williams.

HB 156, by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 150, HB 180, HB 182, HB 285, HR 27, HR 28, HCR 33, HR 36** be deferred and that they retain their position in Orders of the Day. Agreed.

SB 76, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved the adoption of the Committee Amendment No. 2 to **SB 76.** Agreed.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **SB 76.** Agreed.

Representative LeMaster moved that **SB 76,** as amended, be passed.

On the roll call the vote was yeas 42-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Burch, Carpenter, Clarke, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Haering, Hancock, Hines, Holbrook, Holloway, Hurst, Isler, Jones, Kidd, Kleier, LeMaster, List, McBee, Nett, O'Brien, Petty, Priddy, P. Richardson, Schmidt, F. Smith, Thomas, Trevey, Turner, Van Horn, Williams, Yates. Nays 42-Adams, W. Allen, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Deskins, Foster, Gray, Guy, Head, Johnson, Layman, Lindsay, Little, Marcum, May, McNutt, Morris, Pearman, Plummer, Rattliff, Richards, B. Richardson, Riner, Robinson, Sale, Siemens, Stewart, Stone, Tobin, Weinberg, Worthington, Wright.

SB 76, as amended, was defeated.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 39** by Representative Deskins.

Floor Amendment No. 3 to the Committee Substitute to **HB 51** by Representative Bennett.

Floor Amendment No. 1 to **HB 318** by Representative Wright.

The Clerk announced the following meetings:

The Committee on Rules, five minutes after adjournment.

The Committee to investigate distributed material, on adjournment.

The Committee on Cities, on adjournment.

The Committee on Judiciary-Courts, February 14, 1978, 9:00 a.m.

The Committee on Education, public hearing, February 14, 1978, 1:00 p.m.

The Committee on Appropriations and Revenue budget hearings as follows:

February 13, 1978— General Government, 1:00 p.m.

February 14, 1978— Public Protection, 9:30 a.m.

February 15, 1978— General Government, 9:30 a.m.

February 16, 1978— County and Commonwealth Attorneys

February 17, 1978— Department for Human Resources

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Tuesday, February 14, 1978.

On the roll call the vote was yeas 49-Arnold, Benson, Beshear, Boatwright, Boswell, Brown, Bruce, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Kidd, Layman, Marcum, May, McBee, Morris, Nett, Noe, O'Brien, Pearman, Petty, Richards, B. Richardson, P. Richardson, Riner, Sale, F. Smith, Stone, Thomas, Turner, Van Horn, Wilborn, Worthington. Nays 2-Fitzgerald, Priddy.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 14, 1978

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Gene Bronston Waggoner, Stithton Baptist Church, Radcliff, Kentucky.

The roll was called. All present except Representative Tobin.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 10, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 474, by Representatives Haering, Dunn, W. Allen, Benson, Burnette, Cyrus, Davenport, Deskins, Foster, Gay, Holloway, May, Maynard, McKinney, Riner, Romines, Thomas, Tobin, Williams, and Wright: AN ACT relating to the office of county clerk.

HB 475, by Representatives Haering, Johnson, Wright, and Riner: AN ACT relating to sex education.

HB 476, by Representatives Yates, Overstreet, and Deskins: AN ACT relating to certificates of deposit.

HB 477, by Representatives Gay, Schmidt, W. Allen, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Guenthner, Holbrook, Marcum, Patrick, Petty, Plummer, and R. Smith: AN ACT relating to corporate income tax.

HB 478, by Representative Riner: AN ACT relating to education.

HB 479, by Representative Yates: AN ACT relating to retirement systems.

HB 480, by Representatives Davenport and Stone: AN ACT relating to written opinions of the attorney general.

HB 481, by Representative Fitzgerald: AN ACT to establish a legal professional liability joint underwriting association.

HB 482, by Representative Fitzgerald: AN ACT relating to limitations of actions.

HB 483, by Representative Fitzgerald: AN ACT relating to limitations of actions.

HB 484, by Representative DeFalaise: AN ACT relating to transfer of real property.

HB 485, by Representative DeFalaise: AN ACT relating to admissions to state universities and colleges.

HB 486, by Representative Deskins: AN ACT relating to insurance.

HB 487, by Representative Deskins: AN ACT relating to marriage licenses.

HB 488, by Representative Deskins: AN ACT relating to driving history records.

HB 489, by Representative Deskins: AN ACT relating to insurance.

HB 490, by Representative Deskins: AN ACT relating to domestic relations.

HB 491, by Representative Deskins: AN ACT relating to motor vehicle reparations.

HB 492, by Representative Van Horn: AN ACT relating to the county employes retirement system.

HB 493, by Representatives Isler and DeFalaise: AN ACT relating to inspections of mobile homes and recreational vehicles.

HB 494, by Representative LeMaster: AN ACT relating to trusts.

HB 495, by Representative McNutt: AN ACT relating to annexation.

HB 496, by Representative Bendl: AN ACT relating to uniform reporting forms.

HB 497, by Representative Bendl: AN ACT relating to emergency care.

HB 498, by Representative Bendl: AN ACT relating to child custody.

HB 499, by Representative Bendl: AN ACT relating to domestic abuse.

HB 500, by Representative DeFalaise: AN ACT relating to the penalty for a violation of KRS 186.210 (false statements in applications— possession of plates and receipts).

HB 501, by Representative B. Richardson: AN ACT relating to the protection of adults.

HB 502, by Representative B. Richardson: AN ACT relating to taxation of motor vehicles and trailers.

HB 503, by Representatives Jones and Deskins: AN ACT relating to relocation assistance by utilities.

HB 504, by Representatives Clarke and Schmidt: AN ACT relating to legislative approval of state bond issuances and sales.

HB 505, by Representative Burch: AN ACT relating to special local peace officers.

HB 506, by Representative Lindsay: AN ACT relating to area development districts.

HB 507, by Representative Richards: AN ACT relating to controlled substances offenses.

HB 508, by Representative J. Allen: AN ACT relating to registration of rescue and emergency vehicles.

HB 509, by Representatives J. Allen and Dawahare: AN ACT relating to medical school admissions.

HB 510, by Representative Beshear: AN ACT relating to foster care review boards and making an appropriation therefor.

HB 511, by Representative Burch: AN ACT to enforce the limits of the United States Constitution with regard to the right to keep and bear arms.

HB 512, by Representatives Dietz and Isler: AN ACT relating to pension funds for city police and firemen.

HB 513, by Representatives Little and Deskins: AN ACT relating to the accumulation of and retirement credit for sick leave.

HB 514, by Representatives Priddy, Romines, Bendl, Bennett, Benson, Blythe, Burch, Dunn, Guenthner, Haering, Hines, Holloway, Kidd, Kleier, Maynard, Nett, O'Brien, Riner, Siemens, Williams, Wright and Yates: AN ACT relating to unincorporated urban places.

HB 515, by Representatives Priddy and Dietz: AN ACT relating to political activities of members of city or county police and fire departments.

HCR 49, by Representative Jones: A CONCURRENT RESOLUTION requesting and petitioning Congress, the President of the United States, and the United States Department of Transportation to establish a program supported by Federal funds adequate to provide for the long-term resurfacing, restoration, rehabilitation and maintenance of the Nation's Interstate Highway System.

HCR 50, by Representatives Bruce and Morris: A CONCURRENT RESOLUTION relating to interstate highway maintenance.

HR 51, by Representatives Holbrook, Cyrus and Brown: A RESOLUTION to adjourn the House of Representatives in memory and honor of Wiliam C. Shattles.

HJR 52, by Representatives Wright, Burnette, W. Allen, Carpenter, Cyrus, Fitzgerald, Foster, Gay, Haering, Holbrook, Holloway, Johnson, Morris, O'Brien, Patrick and Riner: A JOINT RESOLUTION to withdraw the ratification by the Kentucky General Assembly of the proposed 27th Amendment to the Constitution of the United States, relative to equal rights for men and women, effective March 24, 1979.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 470, HB 471, SB 92.**

Business Organizations and Professions: **HB 473.**

Highways and Traffic Safety: **SB 118.**

Judiciary-Statutes: **HB 472, SB 172, SB 177.**

State Government: **SB 71.**

Report of Committees

The Committee on Rules reported **HR 41** has been posted for passage in Orders of the Day, February 14, 1978.

The Committee on Rules reported **HB 208, HB 269, HB 304, HB 98, HB 102, HB 135, HB 199, HB 200,** and **HB 227** have been posted for passage in Orders of the Day, February 15, 1978.

The Committee on Banking and Insurance reported **HB 36, HB 332** with Committee Amendment attached thereto, **HB 375, SB 91, SB 93,** and **SB 107** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 36, AN ACT relating to credit unions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 290.110 is amended to read as follows:

(1) *Each credit union shall establish its own fiscal year* [The fiscal year of every credit union shall end at the close of business on December 31]. An annual meeting of the corporation shall be held in accordance with the bylaws of the credit union. Special meetings may be held by order of the directors or of the supervisory committee, and shall be held upon request in writing of 10 per cent of the members. Notice of all meetings of the corporation shall be given in the manner prescribed in the bylaws.

(2) At all meetings of members a member shall have but one (1) vote, irrespective of the number of shares held. No shareholder may vote by proxy but a *member may vote by absentee ballot, if the bylaws of the credit union so provide. A* society, association, partnership or corporation having membership in the corporation may be represented by one (1) person authorized to so represent it.

(3) At any meeting the members may decide upon any question of interest to the corporation and may overrule the board of directors *by a majority vote of the entire membership of the credit union.*

Section 2. KRS 290.120 is amended to read as follows:

(1) At the annual meeting the members shall elect a board of directors as prescribed by the bylaws which shall consist of not less than five (5) nor more than fifteen (15) members, a credit committee and a supervisory committee of not less than three (3) members each. A director shall not serve on any committee

mentioned in this section. No member shall serve on more than one (1) of these committees at the same time.

(2) Each director, officer and member of a committee shall take an oath that he will, as far as the duty devolves upon him, diligently and honestly administer the affairs of the corporation and will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the credit union, and that he is the owner *or joint owner* in good faith [and in his own right] on the books of the corporation of at least one (1) share therein. Such oath shall be subscribed by the individual taking it and certified by the officer before whom it was taken and shall immediately be transmitted to the commissioner and be filed and preserved in his office.

Section 3. KRS 290.160 is amended to read as follows:

(1) The capital of the credit union shall consist of the payments made to it by the members thereof on shares. Shares may be subscribed for and paid-in in such manner as the bylaws prescribe. A credit union shall have a lien on the shares of any member and upon any dividends payable thereon to the extent of any loan made to him and of any dues and fines payable by him. A credit union may, upon the resignation or expulsion of a member, cancel his shares and apply the withdrawal value of such shares towards the liquidation of the member's indebtedness.

(2) *The board of directors of each* [A] credit union *shall set the amount of the membership fee* [may, if the bylaws so provide, charge an entrance fee, not to exceed twenty-five (25) cents,] to be paid by each shareholder upon his election to membership.

(3) Fully paid shares of a credit union may be transferred to any person upon election to membership, upon such terms as the bylaws provide, and the payment of a transfer fee which shall not exceed twenty-five (25) cents.

Section 4. KRS 290.200 is amended to read as follows:

(1) A credit union may lend its funds to its members at rates of interest not exceeding one per cent (1%) per month on the unpaid balance of the loan, which amount shall be in lieu of all other charges incident to the making of the loan, except fines for delinquent payments, and in case of secured loans, premiums incurred in the carrying of insurance against the loan, mortgage recording fees, title examination fees, and such other reasonable charges as are necessarily incident to the effective protection of the loan by the security offered.

(2) In the case of a temporary loan, a credit union may charge a fee of *up to five dollars ($5.00)* [twenty-five(25) cents when a loan is in an amount of twenty-five dollars ($25.00) or less, and a fee of fifty (50) cents when the loan is in an amount more than twenty-five dollars ($25.00)].

(3) The legal rate of interest provided by KRS 360.010 shall apply to any loan secured by first lien or first mortgage on real estate and no greater rate of interest shall be charged on such loans.

Section 5. KRS 290.230 is amended to read as follows:

(1) A credit union may make loans, including temporary loans, to its members for provident and productive purposes, and upon such security and terms as the bylaws provide. No loan shall be made to any member which causes such member to become indebted to the credit union in an aggregate amount, upon loans made to such member, which is in excess of $200 or 10 per cent of the credit union's paid-in unimpaired capital and surplus, whichever is greater, or in excess of $2,500 unless such excess over $2,500 is adequately secured. For the purposes of this section, an assignment of shares or the indorsement of a note shall be deemed security.

(2) A member who needs funds with which to purchase necessary supplies for current crops may receive a loan payable in periodic payments rather than fixed monthly instalments.

(3) No officer, member of the board of directors, or member of the credit or supervisory committee shall borrow more than the amount of his investment in the credit union, as represented by fully paid shares and accumulated dividends unless so authorized by the members of the credit union at an annual meeting, or at a special meeting called for such purpose, except that any director, or member of a credit committee or a supervisory committee may borrow up to the unsecured loan limit applicable to all members without authorization from the members. If an application for a loan is made by a member of the credit committee, then the supervisory committee shall appoint a substitute to act in the place of the prospective borrower in the consideration of such loan. No director, officer, or member of the credit or supervisory committee shall become an indorser for a borrower, unless so authorized by the members of the credit union at an annual meeting, or at a special meeting called for that purpose.

(4) A borrower may repay the whole or any part of his loan on any day that the office of the credit union is open for business.

(5) No officer or member of a committee shall knowingly permit or participate in making a loan of the funds of a credit union to a nonmember, the credit union may recover such illegal loan from the borrower, or from any officer or any member of a committee who knowingly committed or participated in the making thereof, or from all of them jointly.

(6) For failure by any member of a credit union to meet promptly his payments on loans when due, charges may be imposed upon the delinquent member as provided in the bylaws.

Section 6. KRS 290.250 is amended to read as follows:
(1) *At least annually* [As the bylaws may provide,] and after provision for the required reserves, the board of directors may declare a dividend to be paid from the remaining net earnings. [Such dividend shall be paid on all fully paid shares outstanding at the end of the period for which the dividend is declared. Shares which become fully paid during such dividend period and are outstanding at the close of the period shall be entitled to a proportional part of such dividend. Dividend credit may be accrued on shares which are or become fully paid during the first ten (10) days of that month.]
(2) The board of directors may [, as of any dividend date,] authorize an interest refund to members of record in proportion to interest on loans paid by the member for the period preceding the interest refund date.

HB 332, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:
(1) The owner of a motor vehicle registered in this Commonwealth who is required by KRS 304.39-080(5) to provide the security required therein for the maintenance or use of such vehicle shall, as prima facie evidence only that such security is currently in full force and effect, affix to the windshield thereof an identifying sticker or emblem which indicates annually the month and day on which such security will expire unless renewed or replaced by said owner.
(2) The form, content and location in which the sticker or emblem required by subsection (1) of this section shall be affixed shall be prescribed by the commissioner by regulation. All such stickers or emblems shall be supplied by or under the authority of the department of insurance and shall be serially numbered for the purpose of determining the identity of the insurer of the vehicle and its owner for which it was issued.
(3) All stickers or emblems issued pursuant to this section shall be the property of the Commonwealth and shall be affixed by the owner to the vehicle covered by the required security only during such time as such security which it represents remains in full force and effect. Every vehicle owner shall immediately remove from such vehicle any sticker or emblem representing security which he knows or has reason to know has been terminated, cancelled, impaired or is otherwise ineffective to serve as security for such vehicle.
(4) Every vehicle owner meeting the security requirements of this Subtitle through the purchase of a contract of insurance shall obtain within thirty (30) days a sticker or emblem evidencing such security from the authorized insurance company (or its authorized agent) with which he has contracted for such security. The commissioner shall furnish or authorize for each insurer sufficient quantities of such stickers or emblems as they may require for each vehicle which such insurer reasonably expects toinsure during each annual period for which its policies of insurance are expected to be in force.
(5) Every vehicle owner meeting the security requirements of this Subtitle through becoming a qualifed self-insurer or an uninsured obligated government shall obtain a sticker or emblem directly from the commissioner.
(6) Every authorized insurance company which cancels or refuses to renew any contract of insurance on any vehicle insured by it for any vehicle owner prior to the normal expiration date of the sticker or emblem which it has furnished such owner for such vehicle shall notify such owner the date of which such sticker shall no longer be in full force and effect and should be removed from the vehicle.
(7) Every authorized insurance company which cancels any contract of insurance required by KRS 304.39-080(5) in accordance with KRS 304.20-040(2) shall provide the commissioner of the bureau of state police notice of such cancellation simultaneously with notice to the insured.
(8) Every authorized insurance company shall provide notice of cancellation to the commissioner of the bureau of state police within ten (10) days following the voluntary cancellation of a policy of insurance required by KRS 304.39-080(5) by a policyholder during the policy period.
(9) Every authorized insurer shall, upon request of the commissioner, furnish to the commissioner with regard to any numbered sticker or emblem furnished by it the name of the owner for whom the security was provided, the vehicle insured by such security and the beginning and ending dates during which the security was in full force and effect.
(10) Upon complaint by any person filed with the commissioner on a form to be prescribed by him alleging that any sticker or emblem was improperly affixed to any vehicle because the security therefor was not then in full force and effect, the commissioner shall determined the probable validity of said complaint by inquiry pursuant to subsection (9) of this section and shall certify the results of his findings to the

complaintant and, if the security was not in apparent effect on the date alleged, shall send a copy thereof to the commissioner of the Bureau of State Police who shall enforce the penalties provided for in Section 2 of this Act.

(11) The commissioner may by regulation provide for:

(a) A temporary certificate or binder of insurance coverage which may be displayed in lieu of the sticker or emblem required by this section for a period not to exceed thirty (30) days during which time the owner of such vehicle shall secure the permanent sticker or emblem required by subsection (1) of this section;

(b) Every motor vehicle dealer or owner of more than five (5) motor vehicles providing the required security under an insurance policy that provides automatic coverage for all owned vehicles may be furnished a supply sufficient for his needs of stickers, emblems or other evidence of such security by his insurer.

(12) All state, city and county police officers shall issue a citation for violation of this section to the owner or operator of any vehicle which has neither a current sticker or emblem affixed thereto or a temporary certificate or binder of insurance as required by this section.

SECTION 2. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The owner of any vehicle which fails to have in full force and effect and security required by Subtitle 39 of KRS Chapter 304 and who does not have any sticker or emblem affixed to the vehicle shall be fined not less than fifty dollars ($50) nor more five hundred dollars ($500) and shall have the license plates thereof suspended for a period of thirty (30) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.

(2) The owner of any vehicle which fails to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 and who has affixed to a vehicle a sticker or emblem which he knows or should have known was not in full force and effect at that time shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and shall have the license plates of such vehicle suspended for a period of ninety (90) days or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.

(3) The owner of any vehicle which fails to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 who has affixed to the vehicle a sticker or emblem which he knows or should know is fraudulent or counterfeit shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) and shall have the license plates of such vehicle suspended for a period of one (1) year or until such time thereafter as proof, in a form satisfactory to the commissioner, is furnished that such security is then and will remain in effect.

(4) Any person who fraudulently distributes any sticker or emblem or temporary certificate or binder of insurance to any person for any vehicle shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) or confined to the county jail for a period not to exceed thirty (30) days or both.

(5) Any motor vehicle dealer who transfers a motor vehicle with an invalid sticker or emblem affixed thereon shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000).

Section 3. KRS 304.99-050 is repealed.

Section4. This Act shall become effective September 1, 1978.

The Committee Amendment to **HB 332** is as follows:

Amend printed copy of **HB 332,** pages 2, 4, and 5, lines 23, 6, 11, and 14 as follows:

Page 2, line 23, delete "qualifed" and insert" qualified".

Page 4, line 6, following the word "shall", delete "determined" and insert "determine".

Page 5, line 11, following the word "effect", delete "and".

Page 5, line 14, following the word "more", insert "than".

HB 375, AN ACT relating to Eligible Surplus Lines Insurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not [knowingly] place surplus lines insurance with an insurer that *he knows, or in the exercise of reasonable diligence could know,* is unsound financially, or that is ineligible under this section.

(2) The commissioner shall from time to time publish a list of all surplus lines insurers deemed by him to be eligible currently, and shall mail a copy of such list to each broker at his office last of record with the commissioner. This subsection shall not be deemed to cast upon the commissioner the duty of determining the actual financial condition or claims practices of any unauthorized insurer; and the status of eligibility, if granted by the commissioner, shall indicate only that the insurer appears to be sound financially and to have satisfactory claims practices and that the commissioner has no credible evidence to the contrary. While any such list is in effect the broker shall restrict to the insurers so listed all surplus lines business placed by him.

SB 91, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 15 IS CREATED TO READ AS FOLLOWS:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12), no contract of annuity, except as stated in subsection (2), shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contractholder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10).

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10). The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

1. any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent (3%) per annum; and

2. the amount of any indebtedness to the insurer on the contract, including interest due and accrued;

and increased by any existing additional amounts credited by the insurer to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross consideration credited to the contract during that contract year less an annual contract charge of thirty dollars ($30) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87 1/2 %) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22 1/2 %) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

2. The annual contract charge shall be the lesser of, a. thirty dollars ($30), or b. ten percent (10%) of the gross annual consideration.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75).

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7), in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8), and (10), additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) After the effective date of this section, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before the second anniversary of the effective date of this section. After the filing of such notice, then upon such specified date, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be the second anniversary of the effective date of this section.

SB 93, AN ACT relating to Group Life Insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.16-085 is amended to read as follows:

(1) Insurance under any group life insurance policy issued pursuant to KRS 304.16-030 (employe groups), KRS 304.16-050 (labor union groups), KRS 304.16-060 (trustee groups), KRS 304.16-070 (public employe groups) and KRS 304.16-080 (association groups) of this subtitle may [, if seventy-five percent of the then-insured employes or members who then have eligible dependents elect,] be extended to insure the dependents, or any class or classes thereof, of each insured employe or member who so elects in amounts in accordance with a plan which precludes individual selection and shall not be in excess of fifty percent of the insurance on the life of such employe or members nor in any event in excess of *ten* [two] thousand dollars upon the life of a spouse or in excess of *five* [one] thousand dollars upon the life of a child; or, as to a child whose age at death is under six months, the amount shall not be in excess of *fifteen* [one] hundred dollars. A "dependent" is the husband or wife of the insured employe or member and an insured employe's or member's child under eighteen years of age or his child eighteen years or older who is attending an educational institution and relying upon the insured employe or member for financial support.

(2) Premiums for the insurance on such dependents may be paid by the group policyholder, or by the employe or member or by the group policyholder and the employe or member jointly.

(3) A husband or wife and dependents pursuant to this section shall have the same conversion right as to the insurance on his or her life as is vested in the employe or member.

(4) Notwithstanding the provisions of KRS 304.16-180 (certificate; filing approval) only one certificate need be issued for each family unit if a statement concerning any dependent's coverage is included in such certificate.

Section 2. KRS 304.16-100 is repealed.

SB 107, AN ACT relating to the creation of a life and health insurance guaranty association.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the Kentucky Life and Health Insurance Guaranty Association Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

The purpose of this Act is to protect policy owners, insureds, beneficiaries, annuitants, payees, and assignees of life insurance policies, health insurance policies, annuity contracts, and supplemental contracts, subject to certain limitations, against failure in the performance of contractual obligations due to the impairment or insolvency of the insurer issuing such policies or contracts. To provide this protection:

(1) an association of insurers is created to enable the guaranty of payment of benefits and of continuation of coverages;

(2) members of the association are subject to assessment to provide funds to carry out the purpose of this Act; and

(3) the association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) This Act shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons licensed to transact insurance in this state at the time such policies or contracts were sold.

(2) This Act shall not apply to:

(a) That portion or part of a variable life insurance or variable annuity contract not guaranteed by an insurer;

(b) That portion or part of any policy or contract under which the risk is borne by the policyholder;

(c) Any policy or contract or part thereof assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued; or

(d) Any policy or contract issued by a licensed nonprofit hospital, medical-surgical, dental and health service corporation, as defined by Subtitle 32 of Chapter 304 and any policy or contract issued by a licensed nonprofit health maintenance organization as defined by Subtitle 38 of Chapter 304 of the insurance code.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

This Act shall be liberally construed to effect the purpose under Section 2 which shall constitute an aid and guide to interpretation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Account" means either of the three accounts created under Section 6 of this Act.

(2) "Association" means the Kentucky Life and Health Insurance Guaranty Association created under Section 6 of this Act.

(3) "Commissioner" means the commissioner of insurance of this state.

(4) "Contractual obligation" means any obligation under covered policies.

(5) "Covered policy" means any policy or contract within the scope of Section 3 of this Act.

(6) "Impaired insurer" means a member insurer deemed by the commissioner after the effective date of this Act to be potentially unable to fulfill its contractual obligations and not an insolvent insurer.

(7) "Insolvent insurer" means a member insurer which after the effective date of this Act, becomes insolvent and is placed under a final order of liquidation, rehabilitation or conservation by a court of competent jurisdiction.

(8) "Member insurer" means any person licensed to transact in this state any kind of insurance to which this Act applies under Section 3.

(9) "Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. "Premiums" do not include premiums and considerations on contracts between insurers and reinsurers.

(10) "Person" means any individual, corporation, partnership, association or voluntary organization.

(11) "Resident" means any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom contractual obligations are owed.

SECTION 6. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) There is created a nonprofit legal entity to be known as the Kentucky Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the association as a condition of their authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under Section 10 of this Act and shall exercise its powers through a board of directors established under Section 7 of this Act. For purposes of administration and assessment, the association shall maintain three accounts:

(a) The health insurance account;
(b) The life insurance account; and
(c) The annuity account.

(2) The association shall come under the immediate supervision of the commissioner and shall be subject to the applicable provisions of the insurance laws of this state.

SECTION 7. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) The board of directors of the association shall consist of not less than five (5) nor more than nine (9) member insurers serving terms as established in the plan of operation. The members of the board shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to one (1) vote in person or by proxy. If the board of directors is not selected within 60 days after notice of the organizational meeting, the commissioner may appoint the initial members.

(2) In approving selections or in appointing members to the board, the commissioner shall consider, among other things, whether all members insurers are fairly represented.

(3) Members of the board may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors but members of the board shall not otherwise be compensated by the association for their services.

SECTION 8. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

In addition to the powers and duties enumerated in other sections of this Act:

(1) If a domestic insurer is an impaired insurer, the association may, subject to any conditions imposed by the association, other than those which impair the contractual obligations of the impaired insurer, and approved by the impaired insurer and the commissioner:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurers;

(b) Provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate paragraph (a) of this subsection, and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection; and

(c) Loan money to the impaired insurer.

(2) If a domestic insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured the covered policies of the insolvent insurer;

(b) Assure payment of the contractual obligations of the insolvent insurer; and

(c) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

(3) If a foreign or alien insurer is an insolvent insurer, the association shall, subject to the approval of the commissioner:

(a) Guarantee, assume, or reinsure or cause to be guaranteed, assumed, or reinsured the covered policies of residents;

(b) Assure payment of the contractual obligations of the insolvent insurer to residents; and

(c) Provide such monies, pledges, notes, guarantees, or other means as are reasonably necessary to discharge such duties.

This subsection shall not apply if the commissioner has determined that the foreign or alien insurer's domiciliary jurisdiction or state of entry provides, by statute, protection substantially similar to that provided by this Act for residents of this state.

(4)(a) In carrying out its duties under subsections (2) and (3) of this section, permanent policy liens, or contract liens may be imposed in connection with any guarantee, assumption or reinsurance agreement, if the court:

1. Finds that the amounts which can be assessed under this Act are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of policy or contract liens, to be in the public interest; and

2. Approves the specific policy liens or contract liens to be used.

(b) Before being obligated under subsections (2) and (3) of this section the association may request that there be imposed temporary moratoriums or liens on payments of cash values and policy loans in addition to any contractual provisions for deferral of cash or policy loan values, and such temporary moratoriums and liens may be imposed if they are approved by the court.

(5) If the association fails to act within a reasonable period of time as provided in subsections (2) and (3) of this section, the commissioner shall have the powers and duties of the association under this Act with respect to insolvent insurers.

(6) The association may render assistance and advice to the commissioner, upon his request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(7) The association shall have standing to appear before any court in this state with jurisdiction over an impaired or insolvent insurer concerning which the association is or may become obligated under this Act. Such standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring or guaranteeing the covered policies of the impaired or insolvent insurer and the determination of the covered policies and contractual obligations.

(8)(a) Any person receiving benefits under this Act shall be deemed to have assigned the rights under the covered policy to the association to the extent of the benefits received because of this Act whether the benefits are payments of contractual obligations or continuation of coverage. The association may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary, insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by this Act upon such person. The association shall be subrogated to these rights against the assets of any insolvent insurer.

(b) The subrogation rights of the association under this subsection shall have the same priority against the assets of the insolvent insurer as that possessed by the person entitled to receive benefits under this Act.

(9) The contractual obligations of the insolvent insurer for which the association becomes or may become liable shall be as great as but no greater than the contractual obligations of the insolvent insurer would have been in the absence of an insolvency unless such obligations are reduced as permitted by subsection (4) of this section but the aggregate liability of the association shall not exceed one hundred thousand dollars ($100,000) in cash values, or three hundred thousand dollars ($300,000) for all benefits, including cash values, with respect to any one life.

(10) The association may:

(a) Enter into such contracts as are necessary or proper to carry out the provisions and purposes of this Act;

(b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under Section 9 of this Act;

(c) Borrow money to effect the purposes of this Act. Any notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets;

(d) Employ or retain such persons as are necessary to handle the financial transactions of the association, and to perform such other functions as become necessary or proper under this Act;

(e) Negotiate and contract with any liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association;

(f) Take such legal action as may be necessary to avoid payment of improper claims;

(g) Exercise, for the purposes of this Act and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform the contractual obligations of the impaired or insolvent insurer.

SECTION 9. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after prior written notice to the member insurers and shall accrue interest at 8% per annum on and after the due date.

(2) There shall be three (3) classes of assessments:

(a) Class A assessments shall be made for the purpose of meeting administrative costs and other general expenses and examinations conducted under the authority of subsection (5) of Section 12 of this Act not related to a particular impaired or insolvent insurer;

(b) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 8 of this Act with regard to an impaired or insolvent domestic insurer;

(c) Class C assessments shall be made to the extent necessary to carry out the powers and duties of the association under Section 8 of this Act with regard to an insolvent foreign or alien insurer.

(3)(a) The amount of any Class A assessment shall be determined by the board and may be made on a non-pro rata basis. Such assessment shall be credited against future insolvency assessments and shall not exceed fifty dollars ($50) per company in any one (1) calendar year. The amount of any Class B or C assessment shall be allocated for assessment purposes among the accounts in the proportion that the premiums received by the impaired or insolvent insurer on the policies covered by each account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to the premiums received by such insurer for such calendar year on all covered policies;

(b) Class C assessments against member insurers for each account shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in this state for the calendar year preceding the assessment by all assessed member insurers;

(c) Class B assessments for each account shall be made separately for each state in which the impaired or insolvent domestic insurer was authorized to transact insurance at any time, in the proportion that the premiums received on business in such state by the impaired or insolvent insurer on policies covered by such account for the last calendar year preceding the assessment in which the impaired or insolvent insurer received premiums bears to such premiums received in all such states for such calendar year by the impaired or insolvent insurer. The assessments against member insurers shall be in the proportion that the premiums received on business in each such state by each assessed member insurer on policies covered by each account for the calendar year preceding the assessment bears to such premiums received on business in each state for the calendar year preceding assessment by all assessed member insurers;

(d) Assessments for funds to meet the requirements of the association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this Act. Classification of assessments under subsection (2) of this section and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(4) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section.

(5) The total of all assessments upon a member insurer for each account shall not in any one (1) calendar year exceed two percent (2%) of such insurer's premiums received in this state during the calendar year preceding the assessment on the policies covered by the account. If the maximum assessment, together with the other assets of the association in either account, does not provide in any one (1) year in either account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this Act.

(6) The board may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out during the coming year the obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the association and for future losses if refunds are impractical.

(7) It shall be proper for any member insurer, in determining its premium rates and policy owner dividends as to any kind of insurance within the scope of this Act, to consider the amount reasonably necessary to meet its assessment obligations under this Act.

(8) The association shall issue to each insurer paying an assessment under this Act, other than a Class A assessment, a certificate of contribution, in a form prescribed by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

SECTION 10. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1)(a) The association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the commissioner;

(b) If the association fails to submit a suitable plan of operation within one hundred eighty (180) days following the effective date of this Act or if at any time thereafter the association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this Act. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall, in addition to requirements enumerated elsewhere in this Act:

(a) Establish procedures for handling the assets of the association;

(b) Establish the amount and method of reimbursing members of the board of directors under Section 7 of this Act;

(c) Establish regular places and times for meetings of the board of directors;

(d) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(e) Establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner;

(f) Establish any additional procedures for assessments under Section 9 of this Act;

(g) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association, except those under paragraph (c) of subsection (10) of Section 8 of this Act and Section 9 of this Act, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this association, or its equivalent, in two (2) or more states. Such a corporation, association, or organization shall be reimbursed for any payments made on behalf of the association and shall be paid for its performance of any function of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

In addition to the duties and powers enumerated elsewhere in this Act:

(1) The commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer;

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer shall constitute notice to its shareholders, if any. The failure of the insurer to promptly comply with such demand shall not excuse the association from the performance of its powers and duties under this Act;

(c) In any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator. If a foreign or alien member insurer is subject to a liquidation proceeding in its domiciliary jurisdiction or state of entry, the commissioner shall be appointed conservator.

(2) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed 5 percent (5%) of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars ($100) per month.

(3) Any action of the board of directors or the association may be appealed to the commissioner by any member insurer if such appeal is taken within thirty (30) days of the action being appealed. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(4) The liquidator, rehabilitator, or conservator of any impaired insurer may notify all interested persons of the effect of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

To aid in the detection and prevention of insurer insolvencies or impairments:

(1) It shall be the duty of the commissioner:

(a) To notify the commissioners of all of the other states, territories of the United States and the District of Columbia when he takes any of the following actions against a member insurer:

1. Revocation of license;
2. Suspension of license;
3. Makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors.

Such notice shall be mailed to all commissioners within thirty (30) days following the action taken or the date on which such action occurs;

(b) To report to the board of directors when he has taken any of the actions set forth in paragraph (a) of this subsection or has received a report from any other commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner;

(c) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer;

(d) To furnish to the board of directors the NAIC Early Warning Tests developed by the National Association of Insurance Commissioners, and the board may use the information contained therein in carrying out its duties and responsibilities under this section. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member companies and companies seeking admission to transact insurance business in this state.

(3) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation or conservation of any member insurer or germane to the solvency of any company seeking to do an insurance business in this state. Such reports and recommendations shall not be considered public documents.

(4) It shall be the duty of the board of directors, upon majority vote, to notify the commissioner of any information indicating any member insurer may be an impaired or insolvent insurer.

(5) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty (30) days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as a National Association of Insurance Commissioners examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors prior to its release to the public, but this shall not preclude the commissioner from complying with subsection (1) of this section. The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(6) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(7) The board of directors shall, at the conclusion of any insurer insolvency in which the association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.

SECTION 13. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) A member insurer, other than a domestic life insurance company or non-profit hospital, medical, surgical, dental or health service corporation, may offset its premium tax liability to this state imposed against it either under KRS 136.330, 136.340, or 136.350, whichever may be applicable, an assessment described in subsection (8) of Section 9 of this Act to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against its premium tax liability for the year in which it ceases doing business.

(2) A member insurer which is a domestic life insurance company may offset against its tax liability to this state imposed under KRS 136.320(3) an assessment described in subsection (8) of Section 9 of this Act to the extent of twenty percent (20%) of the amount of such assessment for each of the five (5) calendar years following the year in which such assessment was paid. In the event a member insurer should cease doing business, all uncredited assessments may be credited against such tax liability for the year in which it ceases doing business.

(3) Any sums acquired by refund, pursuant to subsection (6) of Section 9 of this Act, from the association which have theretofore been written off by contributing insurers and offset against such taxes as provided in subsection (1), (2) or (3) of this section, and are not then needed for purposes of this Act, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of this state.

SECTION 14. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this Act shall be construed to reduce the liability for unpaid assessments of the insureds on an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties under Section 8 of this Act. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities under Section 15 of this Act.

(3) For the purpose of carrying out its obligations under this Act, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to subsection (8) of Section 8 of this Act. Assets of the impaired or insolvent insurer as required by this Act. Assets attributable to covered policies, as used in this subsection, is that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4)(a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer;

(b) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the association for funds expended in carrying out its powers and duties under Section 8 of this Act with respect to such insurer have been fully recovered by the association.

(5)(a) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five (5) years preceding the petition for liquidation or rehabilitation subject to the limitations of paragraphs (b) to (d) of this subsection;

(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations;

(c) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two (2) persons are liable with respect to the same distributions, they shall be jointly and severally liable;

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insolvent insurer;

(e) If any person liable under paragraph (c) of this subsection is insolvent, all its affiliates that controlled it at the time the dividend was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

SECTION 15. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

The association shall be subject to examination and regulation by the commissioner. The board of directors shall submit to the commissioner, not later than May 1 of each year, a financial report for the preceding calendar year in a form approved by the commissioner and a report of its activities during the preceding calendar year.

SECTION 16. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

The association shall be exempt from payment of all fees and all taxes levied by this state or any of its subdivisions, except taxes levied on real property.

SECTION 17. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employes, the association or its agents or employes, members of the board of directors, or the commissioner or his representatives, for any action taken by them in the performance of their powers and duties under this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

All proceedings in which the insolvent insurer is a party in any court in this state shall be stayed sixty (60) days from the date an order of liquidation, rehabilitation, or conservation is final to permit proper legal action by the association on any matters germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default the association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

SECTION 19. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 41, IS CREATED TO READ AS FOLLOWS:

No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement which uses the existence of the Insurance Guaranty Association of this state for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Kentucky Life and Health Insurance Guaranty Association Act. This section shall not apply to the Kentucky Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

The Committee on Counties and Special Districts reported **HB 33** with Committee Amendment attached thereto, **HB 247** with Committee Amendments attached thereto, and **HB 393** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 33, AN ACT relating to the administration of county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

The fiscal court shall adopt a county administrative code which includes, but is not limited to, procedures and designation of responsibility for:

(1) General administration of the office of county judge/executive, county administrative agencies, and public authorities;

(2) Administration of county fiscal affairs, including budget formulation, receipt and disbursement of county funds and preparation of records required for the county audit, and the filing of claims against the county;

(3) Personnel administration, including description and classification of non-elected positions, selection, assignment, supervision and discipline of employes, employe complaints and the county affirmative action program;

(4) County purchasing and award of contracts;

(5) Delivery of county services.

Section 2. KRS 68.020 is amended to read as follows:

(1) The county treasurer shall receive and receipt for all money due the county from its collecting officers or from any other person whose duty it is to pay money into the county treasury, and shall hold such money subject to the order of the fiscal court. He shall not disburse any money received by him for any purpose other than that for which it was collected and paid over to him, and when he pays out money he shall take a receipt therefor. *All warrants for the payment of funds from the county treasury shall be co-signed by the county treasurer and the county judge/executive.*

(2) He may, and when directed by the fiscal court shall, institute actions in the name of the county against all delinquent sheriffs or collectors of the county, and against any one (1) having money belonging to the county who fails or refuses to pay it over on demand when due. He shall keep a record of all actions he is directed to institute on behalf of the county, showing their condition and the money collected thereunder.

(3) He shall keep an accurate detailed account of all money received and disbursed by him for the county, and shall keep books of accounts of the financial transactions of the county in the manner required by any uniform system of accounting prescribed by the department of finance.

[(4) He shall keep his office at the county seat, in a room or rooms provided by the fiscal court. He shall keep his office open for the collection of money at all reasonable times, except on Sundays and legal holidays.]

(4) [(5)] The county treasurer shall, when required by the fiscal court, settle his accounts as county treasurer, and within thirty (30) days after the close of each fiscal year, he shall make a full and complete settlement for the preceding fiscal year with the fiscal court or with a person or persons whom the fiscal court, by order of record, appoints to make settlement with him. In case of a vacancy, the county judge shall call a special term which shall proceed in the manner of the county treasurer.

Section 3. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the county budget commission by April 15 of each year.

(2) [(1)] The county budget commission, at a meeting or meetings held not later than May 1 of each year, shall make a detailed investigation of each separate activity of the county for which *the county judge/executive proposes that* county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units, including:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) Highways and bridges.
(e) Charities, hospitals, infirmaries and corrections.
(f) Recreational.
(g) New property and improvements.
(h) Interest and debt payments.
(i) Miscellaneous and contingent.

(3) [(2)] The county budget shall have a fund known as the "Sinking Fund Principal Account" and a fund known as the "Sinking Fund Interest Account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) [(3)] The county budget [commission] shall *include* [adopt] such budget units as may be required by the activities of the county. When necessary, the county budget [commission] may *be subdivided* [subdivide any budget unit] into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated [by the commission] according to the financial condition and needs of the county.

(5) [(4)] The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) Immediately upon approving a proposed budget for the county, the county budget commission shall forward a copy of the proposed budget to the fiscal court. The fiscal court shall comment upon the proposed budget, and the county budget commission shall amend the proposed budget according to the desires of the fiscal court prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250.

[(5) The county budget commission, in addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, shall prepare an estimated statement of receipts to be anticipated from the various sources of income.]

Section 4. KRS 68.245 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no county budget commission shall submit a budget which would require more revenue from local ad valorem taxes than would be produced by application of the preceding year's rate to the preceding year's assessment, exclusive of voted levies and net assessment growth, except as provided in subsection (3) of this section. *The property valuation administrator shall submit an official estimate of net assessment growth, as determined in accordance with KRS 132.425, to the county judge/executive by April 1 of each year.*

(2) The state local finance officer shall certify to each county budget commission, by June *25* [1] of each year, the maximum permissible local ad valorem tax revenue. This amount shall be computed as follows:

(a) The state local finance officer shall determine the total amount of local ad valorem tax revenue which would be produced by application of the preceding year's rate to the preceding year's assessment.

(b) The state local finance officer shall determine the total amount of local ad valorem tax revenue which would be produced by application of the preceding year's effective county rate to the net assessment growth in each county. The net assessment growth as determined in accordance with KRS 132.425 shall be certified to the state local finance officer by the department of revenue by *June 15* [May 20] of each year.

(c) The sum of the amounts computed under subsections (a) and (b) of this subsection shall be the maximum permissible local ad valorem tax revenue for purposes of subsection (1) of this section, except as otherwise therein prescribed.

(3) Notwithstanding the limitations contained in subsection (1) of this section any county budget commission which, in preparing the proposed budget, deems that it will require an amount of revenue from ad valorem taxes greater than that permitted in subsection (1) may submit to the levying authority for the tax years 1966 and 1967 a budget which could require an increase in such revenue of not more than ten per cent (10%) after compliance with the following:

(a) The county budget commission shall give notice of any proposed increase in revenue. Notwithstanding any statutory provisions to the contrary, notice shall be given by causing to be published, at least one (1) time in a newspaper of general circulation published in the county or by posting at the courthouse door if there be no such newspaper, the fact that said increase of not exceeding ten per cent (10%) is being proposed. Said advertisement shall state that the county budget commission will meet at a place and on a day fixed in the advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposals.

(b) The county budget commission shall conduct a public hearing at the place and on the date advertised for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

Section 5. KRS 68.260 is amended to read as follows:

(1) The proposed county budget adopted by the county budget commission, *tentatively approved by the fiscal court* and approved by the state local finance officer as to form and classification shall be submitted to the fiscal court for adoption not later than July 1 of each year or within ten (10) days after receipt of the certified assessment from the department of revenue, as provided in KRS 133.180, whichever shall be later. The county budget commission shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS chapter 424, at least ten (10) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable; but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

Section 6. KRS 68.280 is amended to read as follows:

The fiscal court [, subject to the approval of the county budget commission,] may make provision for the expenditure of receipts unanticipated in the original budget by preparing an amendment to the budget, showing the source and amount of the unanticipated receipts and specifying the budget funds that are to be increased thereby. The amendment shall be submitted to the state local finance officer [in the same manner and] subject to the same provisions as the original budget.

Section 7. KRS 68.290 is amended to read as follows:

The fiscal court [, subject to the approval of the county budget commission,] may transfer money from one (1) budget fund to another to provide for emergencies. The order of the fiscal court making the transfer shall show the nature of the emergency and the reason for making the transfer. [Neither] The fiscal court [nor the commission] shall *not* have any power to transfer money from any sinking fund or special fund raised for a specific purpose until the obligation or purpose for which the fund was raised has been satisfied.

Section 8. KRS 68.350 is amended to read as follows:

The executive department for finance and administration shall examine the budget records and make such investigations as may be necessary to determine the condition of the financial affairs of each county. If the department finds that any county officer or member of a county budget commission is wilfully violating or neglecting the duties imposed by KRS 68.210 *through 68.360* [to 68.370], it may institute legal proceedings in the [Franklin] circuit court *of that county* to compel compliance with the law.

Section 9. KRS 68.360 is amended to read as follows:

(1) The county treasurer shall balance his books on the first day of each month, so as to show the correct amount on hand belonging to each fund on the day the balance is made, and shall *within ten (10) days* file with the *county judge/executive and members of the fiscal court* [clerk of the fiscal court] a monthly statement containing a list of warrants paid by him during the month, showing all cash receipts and the cash balance at the beginning and at the end of the month, and certifying that each warrant or contract is within the budget appropriation.

(2) The county judge/executive shall, within fifteen (15) days after the end of each quarter of each fiscal year, prepare a statement showing for the current fiscal year to date actual receipts from each county revenue source, the totals of all encumbrances and expenditures charged against each budget fund, the unencumbered balance of the fund, and any transfers made to or from the fund. The county judge/executive shall post the statement in a conspicuous place in the courthouse near the front door for at least ten (10) consecutive days, and transmit a copy to the fiscal court and to the state-local finance officer. The statement shall be read at the next meeting of the fiscal court.

Section 10. KRS 68.990 is amended to read as follows:

(1) Any outgoing county treasurer who fails for ten (10) days to comply with any of the provisions of KRS 68.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(2) The fiscal court and each member thereof that fails or refuses to comply with any of the provisions of KRS 68.080 shall be fined fifty dollars ($50.00) for each offense.

(3) Any county officer or member of a fiscal court who violates any of the provisions of KRS 68.110 (3) shall be fined not less than one hundred (100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both.

(4) The fiscal court and each member thereof that fails or refuses to implement a system of uniform accounts as prescribed by the executive department for finance and administration pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(5) Any local government official who fails to submit an annual financial report requested by the executive department for finance and administration pursuant to KRS 68.210 shall be fined one hundred dollars ($100) for each offense.

(6) [(4)] Any county or state officer who knowingly violates any of the provisions of KRS 68.250 (4), 68.270, 68.280, 68.310, *or* 68.320 [or 68.370] shall, in addition to the specific liabilities imposed for violating any of the provisions of those sections, be guilty of a misdemeanor and, upon conviction thereof, shall have his office declared vacant, and may also be fined not more than five hundred dollars ($500) or imprisoned for not more than ninety (90) days, or both.

(7) [(5)] Any county officer or member of a county budget commission who wilfully violates any of the provisions of KRS 68.010, 68.020 (3), 68.220 to 68.260, 68.290, 68.300 [, 68.330, 68.340] or 68.360 shall be fined not less than fifty (50) nor more than two hundred dollars ($200).

(8) [(6)] Any person, including a corporation, who wilfully fails to prepare or file a timely return, account, or license application described in KRS 68.185, or who wilfully prepares or files a false or inaccurate return, account, or license application shall be fined not more than one hundred dollars ($100).

Section 11. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks, circuit clerks, county judges, county attorneys, sheriffs, jailers, coroners, and constables; provided, however that the auditor shall not conduct such an audit if the elected official notifies the auditor that he has employed a certified public accountant to audit the books, accounts, and papers of his office.

(2) The county shall bear one-half (1/2) of the actual expense of the audit conducted pursuant to paragraph (a) of subsection (1) of this section and shall bear the total actual expense of the audit conducted pursuant to paragraph (b) of subsection (1) of this section. *No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsections (1)(a) or (1)(b) of this section.*

(3) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the auditor of public accounts shall bill the county for the expenses incurred pursuant to subsection (2) of this section. A copy of this bill shall be forwarded to the commissioner of the executive department for finance and administration. If the amount billed has not been paid within ninety (90) days from date of billing, the auditor shall notify the commissioner of the executive department for finance and administration and the commissioner of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 and 431.110 by the state to the county or counties. Deductions shall continue until the total amount due the auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the auditor of public accounts.

(4) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted to the commissioner of the executive department for finance and administration and the state treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the attorney general, whose decision shall be final.

Section 12. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than *five thousand dollars ($5,000)* [two thousand five hundred dollars ($2,500)] without first making newspaper advertisement for bids. Provided, however, That this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

Section 13. KRS 68.325, 68.330, 68.340 and 68.370 are repealed.

Section 14. Sections 1, 3, 4, 5, 6, 7, 8, and 13 shall become effective on January 1, 1979.

The Committee Amendment to **HB 33** is as follows:

Amend printed copy of **HB 33**, page 14, line 16, after the word "section" and before the period ".", insert the following: "*except as provided for in KRS 64.810 (3)*".

HB 247, AN ACT relating to county clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50

Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	1.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	1.50
Making a record for the establishment of a city, recording the plan or plan thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	4.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 18 inches by 24 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	1.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens	5.00
Filing release of a state tax or other state lien	5.00
Filing notification and declaration and petition of candidates for office	5.00
Deposit of wills under KRS 394.110	5.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.35
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapter 271A, including articles of incorporation amendment, restatement of incorporation, merger, or dissolution and statements of establishment or a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00

Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50

Section 2. KRS 118.255 is amended to read as follows:

(1) The [county clerk and/or] secretary of state shall receive a fee of *five dollars ($5.00)* [two dollar ($2.00)] for each notification and declaration and petition filed with him, to be paid by the candidate when the notification and declaration and petition is filed [, and a fee of twenty-five cents (25¢) for each name published as provided in KRS 118.235, to be paid by the county].

(2) The county clerk shall receive a fee pursuant to Section 1 of this Act for each notification and declaration and petition filed with him to be paid by the candidate at the time of the filing. The county clerk shall receive a fee pursuant to Section 1 of this Act for each name published as provided in KRS 118.235, to be paid by the county.

(3) [(2)] The county clerk and/or secretary of state shall pay the cost of mailing the certification of nomination and declaration petition from the fee collected from the candidate.

Section 3. KRS 134.420 is amended to read as follows:

(1) The state and each county, city or other taxing district shall have a lien on the property assessed for taxes due them respectively for five (5) years following the date when the taxes become delinquent, and also on any real property owned by a delinquent taxpayer at the date when the sheriff offers the tax claims for sale as provided in KRS 134.430 and 134.440. This lien shall not be defeated by gift, devise, sale, alienation or any means whatever except by sale to a bona fide purchaser, but no purchase of property made before final settlement for taxes for a particular assessment date has been made by the sheriff shall preclude the lien covering such taxes. The lien shall include all interest, penalties, fees, commissions, charges and other expenses incurred by reason of delinquency in payment of the tax bill or in the process of collecting it, and shall have priority over any other obligation or liability for which the property is liable. The lien of any city, county or other taxing district shall be of equal rank with that of the state. When any proceeding is instituted to enforce the lien provided in this subsection, it shall continue in force until the matter is judicially terminated.

(2) The state shall have a lien of equal rank with the lien provided in subsection (1) of this section on all property of a taxpayer who owes any property tax, license tax, inheritance or estate tax, excise tax, income tax, or other tax, when such taxes are not included in or covered by the lien provided in subsection (1) of this section. This lien shall accrue at the time the liability becomes fixed. The department of revenue may file notice of the lien and every city of the third, fourth, fifth and sixth class shall file notice of the delinquent tax liens with the county clerk of any county where the taxpayer has property, giving the name and address of the taxpayer and the amount of the lien. The clerk shall file the notice in the same manner as notices of lis pendens are filed, and the file shall be designated miscellaneous state and city delinquent and unpaid tax liens. The notice, when filed, shall be constructive notice to all persons of the lien on the property having a legal situs in that county, except that nothing in this subsection shall be construed to alter or change in any way the law relative to the rights and duties of a holder in due course as provided in KRS chapter 355, Art. 3, or affect the rights of any person taking the property or a lien thereon for value without actual or constructive notice. The clerk may charge a fee *pursuant to Section 1 of this Act* [of $1.25] for filing the notice of lien *or releasing the lien.* The fees *for filing or releasing the lien shall be paid by the taxing authority filing same and* shall become a part of the lien as an added cost of the delinquent taxpayer to be paid by him as a part of the amount necessary to release the lien [, and in no event shall the state be required to pay the fee]. *The lien shall be released by the taxing authority that filed the notice of lien.*

Section 4. KRS 150.230 is amended to read as follows:

(1) The county clerk or any agent designated by the department under the provisions of subsection (3) of KRS 150.190 shall retain *a fee pursuant to Section 1 of this Act* [as his fee,] out of the money received by him for licenses and tags [, the following fees:

(a) For each license or tag for which the fee is $1.00, a fee of 15¢;

(b) For each license or tag for which the fee is not less than $2.00 nor more than $5.00, a fee of 25¢;

(c) For each license for which the fee is over $5.00, a fee of 50¢].

(2) *Such* [The foregoing] fees shall cover the swearing of the applicant to his application and of other services under this chapter. The county clerk shall pay the remainder of the license fees, after deducting therefrom his fee, to the state treasurer on the first day of each month, which amount shall be credited to the game and fish fund. The county clerk shall report to the commissioner on the first day of each month the number and kind of licenses and tags issued and the amount of money remitted to the state treasurer.

Section 5. KRS 186.045 is amended to read as follows:

(1) Financing statements relating to vehicles required to be registered in Kentucky by the county clerk shall be filed in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the vehicle is principally operated.

(2)(a) Whenever a financing statement required by KRS chapter 355 relating to any vehicle registered or required to be registered in Kentucky for use on the highway is presented to a county clerk for filing, such clerk shall also immediately note information required by the department relative thereto on the owner's copy of the *certificate of* registration *and ownership* or transfer receipt issued for the current registration period as noted in subsection (2) of KRS 186.170, which the secured party must obtain and present to the county clerk, along with the financing statement, within *fifteen (15)* [ten (10)] days after execution of the security agreement. The clerk shall also note such information on the clerk's copy of the *certificate of* registration *and ownership* or transfer receipt maintained in his office in numerical order. The clerk noting the information on the owner's copy of the *certificate of* registration *and ownership* or transfer receipt shall return such receipt to the owner within five days after making such notation. For filing the financing statement, the clerk shall collect a fee *pursuant to Section 1 of this Act* [of four dollars ($4.00)] from the secured party and, in addition, for noting the security interest on the required receipts, the clerk shall collect from the secured party a fee *pursuant to Section 1 of this Act* [of one dollar ($1.00)] for each *additional* motor vehicle included on the financing statement.

(b) Whenever a financing statement affecting a vehicle is presented to a county clerk for filing in any county other than the one in which the current receipt was issued, the county clerk shall, in addition to the other requirements of this section, mail a notice of the security interest on a form furnished by the department to the clerk of the county in which the current receipt was issued. Upon receipt of said notice, the county clerk shall attach it to the copy of the current receipt on file, maintained in numerical order, in the county clerk's office and note the security interest on the clerk's copy of the receipt.

(3) For failure to present both the current receipt and financing statement within the time prescribed by subsection (2)(a), the secured party shall *not be allowed thereafter to file the financing statement in order to perfect the security interest thereon* [pay a penalty of two dollars ($2.00) to the county clerk as a prerequisite for noting the security interest on the current receipt. The penalty, less the county clerk's commission of five per cent (5%), shall be remitted to the department].

(4) Whenever a perfected security interest is assigned, the assignor shall immediately give a statement of assignment to the assignee and at the same time deliver another copy of such statement to the debtor. The assignee shall, within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the financing statement is on file. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the original financing statement. For this service the county clerk shall collect a fee *pursuant to Section 1 of this Act* [of seventy-five cents (75¢) from the assignee].

(5) Whenever a security interest has been discharged, other than by proceedings under KRS 355.9-501 through 355.9-507 or similar proceedings, the secured party shall, within fifteen (15) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the financing statement is filed. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of such documents, the county clerk shall note the filing in the index and, in addition, note on the clerk's copy of the current receipt maintained in his office in numerical order, in language prescribed by the department that the termination statement has been filed. Upon presentation of the owner's copy of the receipt showing such security interest, the clerk shall also note on such receipt that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's receipt to the owner. The county clerk shall remove the financing statement from his files, mark "terminated" thereon and send or deliver it to the secured party along with any continuation statement, statement of assignment or statement of release pertaining thereto. The county clerk shall then file the termination statement in the place from which the financing statement was removed. Termination statements must be retained in the clerk's files for a period of two (2) years subsequent to the date of filing such statement, at which time they may be destroyed. No fee shall be collected for these services by the clerk. Once a security interest has been noted on the owner's copy of a *certificate of* registration *and ownership* or transfer receipt, no subsequent *certificate of* registration *and ownership* or transfer receipt may be issued by any county clerk free of such notation unless the owner's copy of the current receipt is presented to the clerk and it has noted thereon by the proper county clerk that the termination statement therefor has been filed. If this requirement is met, information relating to any security interest shown on the receipt as having been terminated may be omitted from the receipt to be issued by the clerk.

(6) Whenever any secured party repossesses a vehicle registered with a county clerk, for which a financing statement has been filed, and disposes of such vehicle pursuant to the provisions of KRS chapter

355, he must present, within fifteen (15) days after such disposition, an affidavit in form prescribed by the department and a termination statement or proof that such termination statement has been filed. The new owner shall pay all applicable fees for registering and transferring the vehicle to the county clerk. Upon receipt of such documents, the county clerk who issued the current receipt shall then omit from the *certificate of* registration *and ownership* or transfer receipt he issues, any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by such clerk's copy of the current receipt, which is superior to the one under which the vehicle was repossessed, must be shown on the receipt issued by the clerk unless the prior secured party has terminated such security interest in such clerk's office or proof of termination is submitted in case such prior security interest was discharged in another clerk's office.

(7) Whenever any vehicle brought into this state is required to be registered with a county clerk and such vehicle is then subject to a security interest in another state as shown by the out of state documents presented to the clerk, the county clerk is prohibited from registering the vehicle unless the owner obtains from the secured party a financing statement and presents same to the clerk along with all fees due. Such a financing statement must conform to the requirements of subsection (3) of KRS 355.9-402. The clerk shall note the out of state security interest on the new registration receipt and on the clerk's copy thereof. This provision does not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145. The penalty provided in subsection (3) of this section shall not apply to this subsection.

(8) The fees provided for in this section are in addition to any state fee provided for by law.

(9) Any person violating any provision of this section or any person refusing to surrender a *certificate of* registration *and ownership* or transfer certificate upon request of any person entitled thereto, is subject to the penalties provided in subsection (1) of KRS 186.990.

(10) The county clerk is prohibited from filing any financing statement on any vehicle subject to the provisions of this section if a *certificate of* registration *and ownership* or transfer receipt therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner must see to it that a termination statement is filed for each discharged security interest and then a duplicate receipt as provided for in KRS 186.180 must be obtained from the clerk by the owner of the vehicle.

(11) Security interests in vehicles sold to or owned by residents of other states must be perfected in the state of such nonresident and repossession of the vehicle must be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly registered herein under KRS 186.020 and the security interest is authorized to be filed with the county clerk under KRS 355.9-401. However, a security interest on any vehicle which is not used on the public highways and for that reason is not required to be registered for highway use may be filed with the county clerk as otherwise permitted under KRS chapter 355.

Section 6. KRS 186.675 is amended to read as follows:

The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (1) shall be $4.50. The annual registration fee for trailers and semitrailers which are drawn by motor vehicles required to be licensed under KRS 186.050 (3) through (13) shall be $19.50. The provisions of KRS 186.650 to 186.700 shall not apply to privately owned and operated trailers used for the transportation of boats, luggage, personal effects, farm products, farm supplies or farm equipment. The registration fee for housetrailers shall be $9.50. The registration fee for camping trailers shall be $4.50. The clerk shall issue the registration plate furnished by the department and shall be paid for this service the sum of *one dollar* [fifty cents].

Section 7. KRS 271A.630 is amended to read as follows:

In respect of the following documents, the fees to be collected by the Secretary of State for filing and issuing, when required by this chapter, and by the clerk of the county court for recording, when required by this chapter, shall be:

(1) Articles of incorporation and a certificate of incorporation, by the Secretary of State, fifteen dollars [, and by the clerk, five dollars];

(2) Articles of amendment and a certificate of amendment, by the Secretary of State, fifteen dollars [, and by the clerk, five dollars];

(3) Restated articles of incorporation and a restated certificate of incorporation, by the Secretary of State, fifteen dollars [, and by the clerk, five dollars];

(4) Articles of merger or consolidation and a certificate of merger or consolidation, by the Secretary of State, fifteen dollars [, and by the clerk, five dollars];

(5) An application to reserve a corporate name, by the Secretary of State, ten dollars;

(6) A notice of transfer of a reserved corporate name, by the Secretary of State, ten dollars;

(7) A statement of change of address of registered office or change of registered agent, or both, by the Secretary of State, ten dollars;

(8) A statement of the establishment of a series of shares, by the Secretary of State, ten dollars [, and by the clerk, five dollars];

(9) A statement of cancellation of shares, by the Secretary of State, ten dollars [, and by the clerk, five dollars];

(10) A statement of reduction of stated capital, by the Secretary of State, ten dollars [, and by the clerk, five dollars];

(11) A statement of intent to dissolve, by the Secretary of State, ten dollars [, and by the clerk, five dollars];

(12) A statement of revocation of voluntary dissolution proceedings, by the Secretary of State, ten dollars [, and by the clerk, five dollars];

(13) Articles of dissolution and certificate of dissolution, by the Secretary of State, fifteen dollars [, and by the clerk, five dollars];

(14) An application of a foreign corporation for a certificate of authority to transact business in this state and a certificate of authority, by the Secretary of State, thirty-five dollars;

(15) An application of a foreign corporation for an amended certificate of authority to transact business in this state and an amended certificate of authority, by the Secretary of State, ten dollars;

(16) A copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to transact business in this state, by the Secretary of State, ten dollars;

(17) A copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this state, by the Secretary of State, ten dollars;

(18) An application for withdrawal of a foreign corporation and a certificate of withdrawal, by the Secretary of State, ten dollars;

(19) An annual report, by the Secretary of State, five dollars;

(20) Any other statement or report, of a foreign or domestic corporation, by the Secretary of State, ten dollars [, and by the clerk, five dollars.]*;*

(21) [All of] The county [court] clerk *shall receive a fee pursuant to Section 1 of this Act for recording and issuing reports, articles, and statements pertaining to corporations* [fees for recording are five dollars for the first three legal-size pages and one dollar per legal-size page for each additional legal-size page].

Section 8. KRS 313.307 is amended to read as follows:

(1) Every person licensed by the board to practice dental hygiene shall, before beginning to practice, have the license registered with the county clerk of each county in which he desires to practice, by appearing before the clerk of each such county and filing his affidavit, showing that he has been examined and licensed under this chapter. Dental hygienists may be registered in the same book as dentists are registered as provided in KRS 313.110.

(2) The county clerk before whom such person appears shall attest the filing of the license certificate in duplicate on blanks furnished to the licensee by the board, one (1) copy to be retained by the licensee and the other to be forwarded by the licensee to the secretary-treasurer of the board.

(3) The county clerk *shall receive a fee pursuant to Section 1 of this Act* [may receive a registration fee of fifty cents (50¢)] for each registration.

Section 9. KRS 316.080 is amended to read as follows:

(1) An applicant who receives a license shall have it registered in the office of the county court clerk of the county of his residence and shall pay the clerk a fee *pursuant to Section 1 of this Act* [of one dollar ($1.00)] for registration.

(2) A licensee shall display his license certificate in a public place in his place of business. If for any cause this certificate should be destroyed the applicant shall make a sworn statement of such destruction and go before the state board and ask for a duplicate license. All licensed embalmers must have a certificate to show they are licensed and that their license is in full force and effect.

Section 10. KRS 320.290 is amended to read as follows:

(1) Every optometrist shall register his license with the clerk of the county in which he resides. The clerk shall receive *a fee pursuant to Section 1 of this Act for each registration* [the sum of one dollar ($1.00) as a filing fee].

(2) Every practicing optometrist shall display in a conspicuous place at the entrance to his office the true full name of the person practicing therein and shall keep his license certificate conspicuously displayed in his place of practice so that it can easily be seen and read but not so as to use it to attract patronage.

Section 11. KRS 321.290 is amended to read as follows:

Every person receiving a certificate of license from the board shall forthwith have it recorded in the office of the county clerk of the county in which he resides, and the date of such recording shall be indorsed thereon; and said certificate of license when so recorded shall not be collaterally questioned in any legal proceedings. Until his certificate of license is recorded the holder shall not exercise any of the rights or privileges therein conferred. The clerk shall *receive a fee pursuant to Section 1 of this Act* [be paid fifty cents (50¢)] for recording each certificate and making the report thereof provided for in KRS 321.300. Any registered veterinarian moving his residence from one (1) county in this state to another in order to practice veterinary medicine shall in like manner record the certificate of license in the county to which he removes and the holder of the certificate shall pay to the county court clerk the usual fee for so doing. Veterinarians who have registered in the county in which they reside may go from such county to another or other counties on professional business without being required to register in such other county or counties.

Section 12. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestice general partnership is that name which includes the real name of at least one of the partners; the real name of a domestic limited partnership is that name which includes the real name of at least one of the general partners; the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271A.530.

(2) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name.

The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any.

A separate certificate shall be filed for each assumed name.

No certificate to be filed with the secretary of state shall set forth an assumed name which is identical or deceptively similar to any other assumed name or any corporate name previously filed with the secretary of state unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate name.

The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by its president or vice president and secretary or assistant secretary.

(3) The certificate of assumed name for a person shall be filed with the county court clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be filed with the secretary of state and with the county court clerk of each county wherein business will be conducted or transacted under an assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed and acknowledged as required in subsection (2) of this section.

(5) The county court clerk shall receive a fee *pursuant to Section 1 of this Act* [of one dollar ($1.00)] for filing each certificate, and the secretary of state shall receive a fee of ten dollars ($10.00) for filing each certificate.

Section 13. KRS 376.080 is amended to read as follows:

(1) Any lien provided for in KRS 376.010 shall be dissolved unless the claimant, within six months after he ceases to labor or furnish materials, files in the office of the clerk of the county court of the county in which the building or improvement is situated a statement of the amount due him, with all just credits and set-offs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it, the name of the owner, if known, and whether the materials were furnished or the labor performed by contract with the owner or with a contractor or subcontractor. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(2) The county clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose, properly endorsed and indexed, containing the

date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the lien. The clerk shall receive *a fee pursuant to Section 1 of this Act* [one dollar] from the person filing the statement as full compensation, which shall be taxed and collected as other costs.

Section 14. KRS 376.230 is amended to read as follows:

(1) The lien provided for in KRS 376.210 shall be dissolved unless the person who furnishes the labor, materials or supplies shall, within thirty days after the last day of the month in which any labor, materials or supplies were furnished, file in the county clerk's office of each county in which labor, materials or supplies were furnished, except as hereinafter provided, a statement in writing verified by affidavit of the claimant or his authorized agent or attorney, setting forth the amount due for which the lien is claimed, the date on which labor, materials or supplies were last furnished and the name of the canal, railroad, bridge, public highway or other public improvement upon which it is claimed.

(2) In all cases where a lien is claimed for labor, materials or supplies furnished for the improvement of any bridge, public highway or other public property owned by the state or by any county or city, the statement of lien shall be filed only in the county clerk's office of the county in which the seat of government of the owner of the property is located.

(3) The county clerk, upon the filing of the statement, shall make an abstract and entry thereof as now provided by law in case of mechanics' liens in the same book used for that purpose, and shall make proper index thereof. The clerk shall be paid [one dollar] by the party filing the claim, and [twenty-five cents] for attesting any copy of the lien statement. If he is required to make the copy, he may make an additional charge as provided by law. *The clerk's fees shall be determined pursuant to Section 1 of this Act.* All of these charges may be recovered by the lien claimant as costs from the party and out of the fund against which the claim is filed.

Section 15. KRS 382.290 is amended to read as follows:

(1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two full lines for each note or obligation named in the deed or mortgage.

(2) When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, and when any one or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk.

(3) No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.

(4) For each assignment and release so made and attested by the clerk, he may charge a fee *pursuant to Section 1 of this Act* [of twenty-five cents] to be paid by the person executing the release or noting the assignment.

(5) If such assignment of a note is made by separate instrument or by deed assigning the note, the instrument of writing or deed shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk receiving such instrument of writing or deed of assignment for record shall immediately endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ....," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee *pursuant to Section 1 of this Act* [of twenty-five cents] for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.

(6) No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this subsection.

Section 16. KRS 382.460 is amended to read as follows:

(1) The clerk shall number the notices filed under KRS 382.440 and 382.450, in the order in which they are received, shall endorse on each notice the day and hour of the receipt and the name of the person filing it and shall record the same in a book to be kept for that purpose. He shall forthwith index the notices mentioned in KRS 382.440 by their numbers and by the name of each person whose interest is therein stated to be affected, and the notices mentioned in KRS 382.450 by their numbers and by the names of each person

against whom the attachment or execution is stated to have issued.

(2) For recording each notice mentioned in KRS 382.450 [, there shall be charged thirty cents,] and for the notices mentioned in KRS 382.440 *the clerk shall receive a fee pursuant to Section 1 of this Act* [, fifty cents] for each tract of land therein separately described. The fees shall be paid in advance, and shall be taxed as part of the costs of the party filing the notices in the action, attachment or execution.

Section 17. KRS 382.500 is amended to read as follows:

The county clerk shall be entitled to receive from the [collector of] internal revenue *service* a fee *pursuant to Section 1 of this Act* [of fifty cents] for each notice of tax lien so filed, and a like fee for each lien discharged.

Section 18. KRS 382.510 is amended to read as follows:

Any county clerk shall receive for record and record any certified copy of any matter in reference to bankruptcy which any Act of Congress of the United States may provide for as being necessary to be filed in the county wherein lands of a bankrupt are situated in order to be notice of said bankruptcy. Such certified copy shall be recorded in the record of deeds and indexed in the general index of deeds in the name of the bankrupt, as grantor, and in the name of the trustee in bankruptcy or receiver (if any), as grantee. The county clerk shall be entitled to a fee *pursuant to Section 1 of this Act* [of fifty cents] for recording each such certified copy, to be paid by the person who offers the copy for recording.

Section 19. KRS 355.9-405 is amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in KRS 355.9-403 (4). The uniform fee for filing *and* [,] indexing [and furnishing filing data for] a financing statement so indicating an assignment shall be *as provided in Section 1 of this Act* [$ .75].

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement. The uniform fee for filing *and* [,] indexing [and furnishing filing data about] such a separate statement of assignment shall be *as provided in Section 1 of this Act* [$ .75].

(3) After the disclosure of filing of an assignment under this section, the assignee is the secured party of record.

Section 20. KRS 355.9-406 is amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of such a statement to the filing officer he shall mark the statement with the hour and date of filing and shall note the same upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting such a statement of release shall be *as provided for in Section 1 of this Act* [$ .75].

Section 21. KRS 355.9-403 is amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this article.

(2) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty day period after a stated maturity date or on the expiration of such five-year period, as the case may be, unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

(3) A continuation statement may be filed by the secured party (a) within six months before and sixty days after a stated maturity date of five years or less, and (b) otherwise within six months prior to the

expiration of the five year period specified in subsection (2). Any such continuation statement must be signed by the secured party, identify the original statement by file number and date filed and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(4) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) [Notwithstanding the provisions of KRS Chapter 64,] The uniform fee for filing and indexing an original or a continuation statement shall be *as provided for in Section 1 of this Act* [$4.75]. This fee includes the fee for filing and indexing a termination statement and for sending or delivering the terminated instrument and financing statement. [The uniform fee for furnishing filing data for an original or a continuation statement shall be $3.00.]

Section 22. KRS 376.445 is amended to read as follows:

(1) The lien statement referred to in KRS 376.440 shall be construed to mean a statement in writing in which is stated the amount due the claimant, with all just credits and set-offs known to him, together with a description of the property intended to be covered by the lien sufficiently accurate to identify it and the name of the owner. This statement shall be subscribed and sworn to by the person claiming the lien or by someone in his behalf.

(2) The county [court] clerk shall endorse upon each statement the date of its filing, and shall make an abstract of the statement in a book to be kept by him for that purpose, properly endorsed and indexed, containing the date of filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the lien. The clerk shall receive *a fee as provided for in Section 1 of this Act* [one dollar ($1)] from the person filing the statement as full compensation, which shall be taxed and collected as other costs.

Section 23. KRS 394.110 is amended to read as follows:

A will may be deposited by the person making it, or anyone for him, with the district clerk of the county of his residence for safekeeping, upon payment of a fee *as provided for in Section 1 of this Act* [of one dollar] to the clerk. The clerk shall receive, keep, and deliver the will according to the directions on a sealed envelope. If there are no such directions, or the party entitled does not apply, the will shall be handed to and opened by the district court, after the death of the testator, and there retained for probate.

Section 24. KRS 133.240 is amended to read as follows:

(1) The county clerk shall be allowed *thirty cents (30¢)* [ten cents (10¢)] for *calculating the state, county and school tax and preparing a tax bill for each individual taxpayer* [each tax bill made out] for the sheriff or collector under the provisions of KRS 133.220, and *one dollar ($1.00)* [fifty cents (50¢)] for each tax bill made [out] in case of an omitted assessment. [He shall not be paid any part of his compensation by the state where the taxpayer has no property subject to taxation for state purposes.]

(2) The county clerk shall present his account to the *fiscal* [county] court, verified by his affidavit, together with his receipt from the sheriff for the tax bills and his receipt from the department of revenue for the recapitulation sheets. If found correct, the court shall allow the account, and order one-half (1/2) of it paid out of the county levy and the other one-half (1/2) out of the state treasury. The county clerk shall certify the allowance to the executive department for finance and administration, which shall draw a warrant on the state treasurer in favor of the county clerk for the state's one-half (1/2).

Section 25. KRS 64.010, clerks fees, is hereby repealed.

The Committee Amendment No. 1 to **HB 247** is as follows:

Amend printed copy of **HB 247,** page 5, line 8, delete ".35" and insert therefor the following: ".50".

The Committee Amendment No. 2 to **HB 247** is as follows:

Amend printed copy of **HB 247,** page 36, after line 9, insert the following:

"SECTION 25. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk of any county shall receive a maximum annual expense allowance of $3,600 to be paid from the fees collected by the clerk. In counties of less than 75,000 population, the expense allowance shall be taken in monthly installments of $300 from fees collected on a calendar year basis. In counties of 75,000 or more population, the allowance shall be paid in semi-monthly installments of $150 according to the procedures found in KRS 64.345(4). The expense allowance provided by this section shall be in addition to other lawful expense payments.

(2) If the amount of fees collected will not fund the full amount of the annual expense allowance, then the county clerk shall receive the excess of such fees after all other lawful expenses and salaries have been paid. The fiscal court of any county may pay that portion of the maximum annual expense allowance for which no excess fees are available."

and on page 36, line 10, delete the words "Section 25." and insert therefor the following: "Section 26."

HB 393, AN ACT relating to county finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county [having a population of 50,000 or more,] may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one per cent (1%) of (a) salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county; [, and] (b) the net profits of *self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county, and (c) the net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county. In order to reduce administrative costs and minimize paperwork for employers, employes and businesses, the fiscal court may provide (a) for an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided above on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county and (b) for an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided above on net profits of* businesses, trades, professions or occupations from activities conducted in the county. Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

[(3) No order or resolution of the fiscal court imposing license fees pursuant to subsection (1) of this section shall be valid until it is approved by a majority of the voters of the county at an election called by the fiscal court.

(4) The election in any county shall be held not less than fifteen (15) nor more than sixty (60) days from the time a resolution calling the election is adopted by the fiscal court. The election may be held at the same time as the regular election in November or on any Saturday at any other time in the year. The election shall be conducted and carried out in the county in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election if held on the regular election day in November shall be borne by the fiscal court.]

HB 393, AN ACT relating to county finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of *30,000* [50,000] or more, may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, shall be imposed at a percentage rate not to exceed one per cent (1%) of (a) salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county; [, and] (b) the net profits of *self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county, and (c) the net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county. In order to reduce administrative costs and minimize paperwork for employers, employes and businesses, the fiscal court may provide (a) for an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided above on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county and (b) for an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided above on net profits of* businesses, trades, professions or occupations from activities conducted in the county. Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any insurance company, bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

(3) [No order or resolution of] The fiscal court imposing license fees pursuant to subsection (1) of this section *may, at its option and in accordance with the laws governing the placing of questions on the ballot, submit the question of the license fee to the voters of the county at a regular election. If the question is submitted to the voters, then the order or resolution imposing a license fee shall not be valid until it is approved by a majority of the voters voting in the election* [shall be valid until it is approved by a majority of the voters of the county at an election called by the fiscal court].

[(4) The election in any county shall be held not less than fifteen (15) nor more than sixty (60) days from the time a resolution calling the election is adopted by the fiscal court. The election may be held at the same time as the regular election in November or on any Saturday at any other time in the year. The election shall be conducted and carried out in the county in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election if held on the regular election day in November shall be borne by the fiscal court.]

The Committee on Public Utilities and Transportation reported **HB 244, HB 377,** and **HB 383** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 244, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.005 is amended to read as follows:

(1) It is declared to be the policy of this Commonwealth that all commercial vehicles should be regulated, registered and the laws pertaining thereto be administered by the department of transportation. Motor vehicles other than commercial vehicles should be registered, regulated and controlled by the department of transportation and the department of justice.

(2) All motor vehicles registered under the provisions of KRS 186.050(1) shall be on an annual basis and evidenced by a license plate whose registration designation is a combination of three letters of the alphabet and three arabic numerical digits. These registration plates shall be issued for use during a multi-year period and validated for continued use the following year, or years, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.

(3) [The registration insignia and receipts issued in accordance with the terms of KRS 186.050(1) are on a calendar year basis.] The department of transportation may promulgate regulations and prepare the proper insignia and forms, which forms shall include information required by the department of transportation.

Section 2. KRS 186.020 is amended to read as follows:

(1) Before the owner of a motor vehicle, other than a motor vehicle engaged in the transportation of passengers for hire operating under a certificate of convenience and necessity, may operate it or permit its operation upon a highway, the owner shall apply for registration in accordance with regulations issued by the department, except that a person who purchases a motor vehicle, or brings a motor vehicle into the Commonwealth from another state shall make application for registration within five (5) days. The bill of sale or assigned title must be in the motor vehicle during this five-day period. If the owner of a motor vehicle is an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which he resides. If the owner of a motor vehicle does not reside in the Commonwealth, the motor vehicle shall be registered with the county clerk of the county in which the motor vehicle is principally operated. If the owner of a motor vehicle is other than an individual and resides in the Commonwealth, the motor vehicle shall be registered with the county clerk of either such county. The application when presented to the county clerk for registration shall be accompanied by:

(a) A *bill of sale and a* manufacturer's certificate of origin if the application is for the registration of a new motor vehicle; or

(b) The owner's registration receipt, if the motor vehicle was last registered in this state; or

(c) A bill of sale and the previous registration receipt, if last registered in another state where the law of such state does not require the owner of a motor vehicle to obtain a certificate of title or ownership; or

(d) A certificate of title, if last registered in another state where the law of such state requires the owner of a motor vehicle to obtain a certificate of title or ownership.

(2)*(a)* After that, the owner of any motor vehicle registered under KRS 186.050(1) shall register his motor vehicle on or before *his certificate of registration expires* [March 1 of each year]. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(b) After that, the owner of any motor vehicle registered under KRS 186.050(2) shall register his motor vehicle on or before March 1 of each year. If, before operating such motor vehicle in this state, the owner registers it at some later date and pays the fee for the full year, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(3) After that, the owner of any commercial vehicle registered under KRS 186.050 (3) through (14) shall register his commercial vehicle on or before April 1 of each year. If, before operating such commercial vehicle in this state, the owner registers it at some later date and pays the required fee, he will be deemed to have complied with the law. Insofar as the owner is concerned, registration with the clerk shall be deemed to be registration with the bureau.

(4) The application and documents presented therewith shall be retained on file in the office of the clerk for a period of not less than seven (7) years.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) On the application of any person who has lost the use of a leg or both legs, or an arm or both arms, or any combination thereof, or any person who is blind, the department of transportation shall issue the handicapped person special registration plates designating the vehicle licensed as belonging to a handicapped person. The license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear a handicapped insignia approved by the department, reading from left to right; and shall be followed by such numbers or letters as the department finds expedient. The department shall not issue registration plates so designated to any person other than a handicapped person. The department shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plates. License plates issued under this section shall expire December 31.

(2) When a motor vehicle bearing plates issued to a handicapped person as prescribed in this section is being operated by or for the benefit of the handicapped person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities except where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane or where the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon or evening hours or where the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

Section 4. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be $11.50.

(2) The annual registration fee for each motorcycle shall be $5.00, and for each sidecar attachment, $3.00.

(3)*(a) All motor vehicles having a declared gross weight of vehicle and any towed unit of 6,000 pounds or less except those mentioned in subsections (1) and (2) and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be $11.50.*

(b) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections *(3)(a) and* (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle	Registration and Any Towed Unit Fee
[0 — 6,000]	[$ 11.50]
6,001-10,000	$24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4)(a) Any farmer owning a truck having a gross weight of 30,000 pounds or less may have it registered as a farmer's truck and obtain a license for $11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 30,000 pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 30,000 pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm, and the vehicle registered will not be operated more than fifty (50) air miles from his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus

and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than fifty (50) air miles from the point at which such coal is mined, or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the bureau's certification to the department of transportation copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, That nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be $20.00 and the tag issued shall be designated "Housecar." Provided, however, That the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14)(a) The bureau of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to *title* [register] his motor vehicle under this section shall first *title* [register] such vehicle with the county clerk pursuant to KRS 186.020 for a *state* fee of $1.00. Title to *such* [a] vehicle [so registered] may be transferred, *however title, without proper registration,* [but such registration] shall not authorize the operation or use of the vehicle on any public highway. *Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the bureau may issue an apportioned registration plate to such commercial vehicle.* [The department shall promulgate regulations in accordance with this section.]

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction which vehicle is subject to apportioned registration as provided in KRS 186.050(14)(a) may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the bureau may issue an apportioned registration plate to such commercial vehicle. The bureau shall promulgate regulations in accordance with this section.

Section 5. KRS 186.051 is amended to read as follows:

(1) Notwithstanding the provisions of this chapter, the department shall by January 1, 1978, establish a year-round system for the registration of vehicles under the provisions of KRS 186.050(1). The system shall be designed so as to distribute the work load as uniformly as practicable within the various offices of the county court clerks, as well as the department, on a year-round basis. In implementing a year-round registration system, the department may establish separate and distinct registration years. Each registration year so designated shall begin on the first day of a calendar month and expire on the last day of the last calendar month in a registration period. Registration periods may be designated to include less than twelve (12) consecutive months and registration fees shall be computed at a rate of one-twelfth of the appropriate annual registration fee per month in each registration period. The department may establish a registration year of more than twelve (12) months except that registration fees for designated periods of more than twelve (12) months may be paid at the option of the owner. The department may promulgate reasonable rules and regulations to carry out the orderly implementation and administration of the year-round registration system.

(2) Notwithstanding the provisions of this chapter, the department shall by April 1, 1980, establish a year-round system for the registration of vehicles under the provisions of KRS 186.050(3)(a). The system shall be designed so as to distribute the work load as uniformly as practicable within the various offices of the county court clerks, as well as the department, on a year-round basis. In implementing a year-round registration system, the department may establish separate and distinct registration years. Each registration year so designated shall begin on the first day of a calendar month and expire on the last day of the last calendar month in a registration period. Registration periods may be designated to include less than twelve (12) consecutive months and registration fees shall be computed at a rate of one-twelfth of the appropriate annual registration fee per month in each registration period. The department may establish a registration year of more than twelve (12) months except that registration fees for designated periods of more than twelve (12) months may be paid at the option of the owner. The department may promulgate reasonable rules and regulations to carry out the orderly implementation and administration of the year-round registration system.

Section 6. KRS 186.130 is amended to read as follows:

(1) If any person becomes the owner of a motor vehicle *required to be registered under the provisions of KRS 186.050(2)* [other than a commercial vehicle] after January 1 of any year, and for that reason registers for only part of a year, the registration fee shall be as many twelfths of the annual fee as there are unexpired months in the calendar year.

(2) If any person offers a commercial vehicle for registration after June 30 of any year by reason of not having operated such vehicle on the public highways after April 1 of that year, the registration fee shall be three-fourths (3/4) of the annual registration fee if registered after June 30 and prior to September 30 of that year; and shall be one-half (1/2) of the annual registration fee if registered on or after October 1 and before January 1 of the following year; and shall be one-fourth (1/4) of the annual registration fee if registered on January 1 or thereafter for the balance of the registration year which expires March 31. [Provided, however, That any proper 1966 registration of a commercial vehicle shall remain valid until April 1, 1967, and any commercial vehicle offered for registration between January 1, 1967 and June 30, 1967 shall pay the full annual

registration fee and shall be issued a 1967 registration plate.]

Section 7. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the department through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle licensed under subsections (3) through (14) of KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. If the department has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The department shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the department make identity of the registrant readily ascertainable.

(2) [Except as otherwise provided for commercial vehicles, trailers, semitrailers and house trailers, the registration year shall be from January 1 to December 31; however, registration plates for the succeeding year may be displayed beginning December 29.] The registration year for commercial vehicles, trailers, semitrailers and housetrailers shall be from April 1 to March 31. *The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31.*

Section 8. KRS 186.173 is amended to read as follows:

(1) Upon application to the county clerk of the county of his residence, a member of the Kentucky national guard shall be issued a license plate in the same form and character as license plates authorized by law to be used *on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of 6,000 pounds. The plate* [upon similar private vehicles registered in Kentucky, except that such license plates] shall bear the name "Kentucky National Guard", a registration number, and the logo of the national guard. *The guardsman may purchase only one such registration annually and it must be for a vehicle in which he has total or partial ownership.* Each application shall be accompanied by proof of current service in the Kentucky national guard, and the payment of a one-time fee of twenty-five dollars ($25.00). *License plates issued under this section shall expire on December 31.* Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service in the Kentucky national guard, and without payment of a registration fee, the clerk shall issue a *new plate, or a renewal decal, as directed by the department of transportation* [current year tag to the applicant to be affixed to the national guard license plate originally issued to the applicant].

(2)*(a)* Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the national guard license plate and return it *and the certificate of title and registration* to the county clerk. *The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an $11.50 state fee and $1.00 clerk's fee* [who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom the national guard license plate was originally issued].

(b) Upon application of another vehicle which is authorized to bear such registration under subsection (1), owned by the same applicant to whom the national guard license plate was originally issued the county clerk shall issue another such license plate. There shall be no state fee for this plate and $1.00 clerk's fee.

(3) Upon termination of membership in the Kentucky national guard, an applicant to whom a national guard license plate was issued under this section shall, within thirty (30) days, return the national guard plate to the county clerk of the county of his residence.

(4) For the services performed in issuing national guard license plates, and in annually issuing a *renewal decal* [current year tag] to be affixed to the national guard license plate, the county clerk shall receive from each applicant a fee of one dollar ($1.00). A like fee shall be charged for the *issuance of another replacement* [reissuance of such] license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the department of transportation shall in accordance with the provisions of KRS Chapter 13 make such reasonable regulations and prescribe such forms as may be necessary to carry out the purpose of this section.

Section 9. KRS 186.174 is amended to read as follows:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) *or (3)(a),* except taxicabs, airport limousines and U-Drive-Its, may, in addition to registration under KRS

186.050(1) *or (3)(a),* obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25) is received by the department of transportation on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or a money order. An application for such personalized license plate shall in no way interfere with the regular registration of the motor vehicle except as provided hereinafter. Any person purchasing a personalized license plate under the provisions of this section shall leave the original license plate in the custody of the county clerk and attach the personalized plate to the motor vehicle so licensed. Upon the sale or transfer of such motor vehicle bearing such personalized plate the owner shall remove same and obtain from the custody of the county clerk the original plate and attach it to the motor vehicle to be sold or transferred. Said personalized plate may be presented to the county clerk and he shall reissue same for use on any other vehicle of the same class and category as that for which the license was originally issued. License plates issued under this section shall expire December 31.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the department, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner must make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an owner obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(3) In the event a personalized plate is lost, stolen or mutilated, the owner may not obtain another such plate until the next registration year. He may, however, obtain the plate for which he had originally registered his motor vehicle under the provisions of KRS 186.050(1) *or (3)(a).*

(4) The department shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. Upon payment to the clerk of a fee of one dollar ($1.00), in addition to the regular registration fee and the additional license fee as provided for in this section, the clerk shall issue the personalized plate to the applicant by following the same procedure for the issuance of any license plate under KRS 186.050(1).

(5) The secretary of transportation may make such rules and regulations as he deems necessary to further the purposes of this section.

Section 10. KRS 186.177 is amended to read as follows:

(1) Owners of motor vehicles *required to be registered under the provisions of KRS 186.050(1) or (3)(a)* who are residents of this state and who hold an unrevoked and unexpired official amateur radio station and operator's license issued by the federal communications commission, upon application for each licensing year, accompanied by proof of ownership of such amateur radio licenses, and upon complying with all other laws of this state relating to the registration and licensing of motor vehicles, and upon the payment of an additional license fee of twenty-five dollars ($25) shall be issued an additional license plate upon which shall be inscribed, in lieu of the usual number, the official amateur radio call letters of the station of such applicant as assigned by the federal communications commission, and the year for which the plate is issued. An application for such special license shall in no way interfere with the regular registration of the vehicle, except as provided hereinafter. Any person purchasing a license plate under the provisions of this section shall be authorized to leave the original plate in the custody of the county clerk and attach the plate bearing the radio call letters on the vehicle so licensed. Upon the sale or transfer of such vehicle bearing such special plate the owner shall remove same and obtain from the custody of the county clerk the original plate and attach it to the vehicle to be sold or transferred. Said special plate may be presented to the county clerk and he shall reissue same for use on any other vehicle of the same class and category as that for which the license was originally issued and owned by such radio station licensee. The application shall be at such time and on such forms as may be reasonably prescribed by the secretary of the department of transportation, and the special plate shall be issued at such time as he shall reasonably prescribe. License plates issued under this section shall expire on December 31. A license plate shall not be issued under this section unless an application accompanied by a fee of twenty-five dollars ($25) is received by the department of transportation on or before September 1, preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or a money order.

(2) For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and to the additional license fee as provided for in this section, the additional sum of one dollar ($1.00) for each registration under this section. A like amount shall be charged for the reissuance of such special license plate after the sale or transfer of the vehicle to which it was originally attached.

(3) The secretary of the department of transportation may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

Section 11. KRS 186.178 is amended to read as follows:

(1) Upon application for each licensing period, and payment of an additional license fee of twenty-five dollars ($25.00), owners of motor vehicles *required to be registered under the provisions of KRS 186.050(1) or (3)(a)* who are duly elected members of the general assembly shall be issued an additional license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or legislative district (i.e. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued.

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications promptly to the department of transportation, noting thereon the current registration number of the vehicle for which the special legislative plate is being sought. The department shall thereupon deliver the special legislative plate to the county clerk. The legislator shall leave the original plate in the custody of the county clerk and attach the special legislative plate to the vehicle so licensed. License plates issued under this section shall expire on December 31.

(4) Upon the sale or transfer of a vehicle bearing such special legislative license plate, the owner shall remove same and obtain from the custody of the county clerk the original plate and attach it to the vehicle to be sold or transferred. Said special legislative plate shall be reissued by the county clerk for use on any other vehicle [of the same class and category] owned by the legislator *and authorized to be registered under the provisions of KRS 186.050(1) or (3)(a)* [for which the license was originally issued].

(5) For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and to the additional license fee as provided for in this section the additional sum of one dollar ($1.00) for each registration under this section. A like amount shall be charged for the reissuance of such special license plate after the sale or transfer of the vehicle to which it was originally attached.

(6) The secretary of the department of transportation shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 12. KRS 186.179 is amended to read as follows:

(1) Upon application for each licensing period, owners of motor vehicles *required to be registered under the provisions of KRS 186.050(1) or (3)(a)* who are duly elected or appointed justices or judges of the Court of Justice shall be issued two (2) additional license plates for an additional annual license fee of twenty-five dollars ($25).

(2) On license plates for justices of the Supreme Court, other than the chief justice, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the initials "JSC" followed by the Supreme Court district from which they serve, and in lieu of the county name, the words "SUPREME COURT." On the plates issued to the chief justice shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "CHIEF JUSTICE."

(3) On the plates for judges of the Court of Appeals, other than the chief judge, shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the appellate district from which they serve, followed by the initials "CA", followed by the division number which they serve, and in lieu of the county name the words "COURT OF APPEALS." On plates issued to the chief judge shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, "-1-", and in lieu of the county name, the words "COURT OF APPEALS."

(4) On the plates for circuit judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number the number of the judicial circuit which they serve followed by the initial "C", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(5) On the plates for district judges shall be inscribed "KENTUCKY," and the licensing period for which the plate is issued, and in lieu of the usual registration number, the number of the judicial district which they serve followed by the initial "D", followed by the number of the division which they serve, if any, and in lieu of the county name the word "JUDICIARY."

(6) Any person who has been sworn as a justice or judge of the Court of Justice, or who has received his certificate of election to the Court of Justice and whose election is not being challenged, may apply for the special judicial license plates authorized by this section, provided the term of office to which he was elected

shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(7) Applications shall be filed with the county clerk of the county in which the judge resides and the clerk shall forward the applications promptly to the department of transportation, noting thereon the current registration number of the vehicle for which the special judicial plates are being sought. The department shall thereupon deliver the special judicial plates to the county clerk. The judge shall leave the original plate in the custody of the county clerk and attach the special judicial plates to the vehicle so licensed; one license plate attached to the front of the vehicle, and one license plate attached to the rear of the vehicle. Licenses issued under this section shall expire December 31.

(8) Upon the sale or transfer of a vehicle bearing such special judicial license plates, the owner shall remove same and obtain from the custody of the county clerk the original plate, and attach it to the vehicle to be sold or transferred. Said special judicial plates shall be reissued by the county clerk for use on any other vehicle [of the same class and category] owned by the judge *and authorized to be registered under the provisions of KRS 186.050(1) or (3)(a)* [for which the license was originally issued].

(9) For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and the additional license fee provided for in this section, the additional sum of one dollar ($1.00) for each registration under this section. A like amount shall be charged for the reissuance of such special license plates after the sale or transfer of the vehicle to which it was originally attached.

(10) In the event a *judicial* [personalized] plate is lost, stolen or mutilated, the owner may not obtain another such plate until the next registration year. He may, however, obtain the plate for which he had originally registered his motor vehicle under the provisions of KRS 186.050(1) *or (3)(a)*.

(11) The secretary of the department of transportation shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

Section 13. KRS 186.190 is amended to read as follows:

(1) Whenever a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon such motor vehicle as a part of it until the expiration of the registration year.

(2) No person shall sell or trade any motor vehicle [except a motor vehicle sold to dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080,] without delivering to the county clerk of the county in which the sale or trade is made the current registration receipt issued on the motor vehicle and the *bill of sale* [assignment form on the reverse side properly executed].

(3) Upon delivery of the registration receipt *and* [with] the *bill of sale* [assignment form on the reverse side properly executed] to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1.00), which shall be remitted to the department of transportation. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of two dollars ($2.00) for his services.

(4) Whenever a county clerk issues to a purchaser a transfer of registration in a county other than the one in which the motor vehicle was originally registered, the clerk shall immediately mail one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall immediately return the plate and receipt to the department of transportation. The owner shall pay to the county clerk fifty cents (50¢) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The registration receipt issued by the clerk under this section shall contain information as required by the bureau of vehicle regulation.

Section 14. KRS 186.200 is amended to read as follows:

(1) The *bill of sale provided for by KRS 186.190* [reverse side of the certificate of registration and ownership shall include an assignment form to be filled out in the event of the sale or transfer of a motor vehicle, and said form] shall contain the date, the purchaser's name and post office address, seller's name and post office address, and the information provided for in KRS 186.030 and shall be subscribed and sworn to before any officer authorized to administer an oath.

(2) No person for himself or his employe or agent or as an officer of any court, shall sell, trade, transfer or deliver any motor vehicle without at the same time *making a bill of sale in quadruplicate and delivering the original and two (2) copies thereof to the county clerk. The county clerk shall retain one (1) copy of the bill of sale and shall deliver the original copy to the purchaser together with the registration receipt or transfer of registration, and attach the other copy to the department of revenue's copy of the registration receipt of transfer of registration* [properly executing the assignment form on the reverse side of the certificate of

registration and ownership]. No person shall sign *a bill of sale* [an assignment form] until the purchaser's name is shown thereon.

Section 15. KRS 186.210 is amended to read as follows:
No person shall make any false statement in an application for registration, application for duplicate receipt or plate, *bill of sale,* registration receipt, motor number or vehicle identification number. The penalty provided for violation of this section by KRS 186.990 shall be printed prominently on every form or blank used for these purposes and furnished by the department. No person shall use, display or keep registration plates or registration receipts that do not belong, or have not been issued to him.

Section 16. KRS 189.455 is hereby repealed.

HB 377, AN ACT relating to boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 235.040 is amended to read as follows:
Every motorboat on the waters of this state shall be numbered *and currently registered in accordance with the provisions of this chapter.* No person shall operate or give permission for the operation of any motorboat on such waters unless the motorboat is registered and numbered in accordance with this chapter, [or in accordance with the applicable federal law,] or in accordance with a federally approved numbering system of another state, and unless (1) the certificate of number awarded to such motorboat is in full force and effect, and (2) the identifying number set forth in the certificate of number is displayed on each side of the bow of such motorboat.

Section 2. KRS 235.050 is amended to read as follows:
(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the circuit court clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the circuit court clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in triplicate with one (1) copy to be retained by the circuit court clerk, one (1) copy to be forwarded to the *department* [division of driver licensing], and the original to constitute a *current* [temporary] registration certificate [valid for not more than ninety (90) days and to be destroyed upon receipt of the permanent certified certificate]. The application shall be accompanied by:
(a) A bill of sale, if the application is for registration of a new motorboat; or
(b) The owner's registration receipt if the motorboat was last registered in this state; or
(c) A bill of sale and the previous registration receipt if last registered in another state; and
(d) The annual registration fee.
(2) Motorboats shall be registered annually.

Section 3. KRS 235.060 is amended to read as follows:
All original, renewal and duplicate licenses for the operation of motorboats shall be issued by the *circuit court clerk in the county in which the motorboat is registered, except the department shall issue manufacturers and dealers registrations and registrations for federal and state agencies* [division of driver licensing].

Section 4. KRS 235.070 is amended to read as follows:
(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the circuit court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the *department* [division of driver licensing]. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, present resident address, the make of the boat, hull identification number (HIN), if any, length, beam, motive power, maximum capacity, type of hull material, [and] intended use of *the* boat, *and whether the fuel is gasoline, diesel or other.* The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations promulgated pursuant to *this* [KRS] chapter [224]. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or

county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a *current* [temporary license,] certificate of number or renewal thereof [to be valid for not more than ninety days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent certificate from the division of driver licensing].

(4) No *certificate of number or renewal thereof* [license] for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to *this* [KRS] chapter [224].

Section 5. KRS 235.080 is amended to read as follows:

(1) *The* [With the exception of motorboats for hire by a boat livery, the] annual registration fee for motorboats shall be based upon *the following* [length of the motorboat as follows]:

1 foot through 15 feet 11 inches	*$ 5.00*
16 feet through 25 feet 11 inches	*7.00*
26 feet through 39 feet 11 inches	*10.00*
40 feet and over	*12.00*
All inboards and inboard/outboards	*12.00*

[1 foot to 16 feet — $3.00; 16 feet to 26 feet — $5.00; 26 feet to 40 feet — $8.00; 40 feet and larger — $10.00. The annual registration fee for all inboard motorboats shall be $10.00.] Every application shall be accompanied by the registration fee above set out.

(2) The annual registration fee for *motorboats* [boats] for hire from a [boat] livery shall be *the registration fees set forth in (1) above* [as follows: 1 foot to 16 feet — $1.00; 16 feet to 26 feet — $2.50; 26 feet to 40 feet — $4.00; 40 feet and larger and inboard motorboats — $5.00]. Owners of a [boat] livery shall apply for licenses or certificates in the manner provided in this chapter, but the bureau may promulgate special rules and regulations relating to their certification and registration.

Section 6. KRS 235.090 is amended to read as follows:

On Monday of each week the circuit court clerk shall make a written report to the *department* [division of driver licensing] which shall include the name and address of those persons who have applied for registration of motorboats, the length and type of such motorboat, and the registration fee charged and the amount of registration fee collected from the applicant. This report shall cover the period of the calendar week preceding the report. The applications for registration and the fees collected by the clerk shall be forwarded with the said report to the *department* [division of driver licensing. The clerk shall collect from each owner a fee in the sum of fifty cents (50¢) for each registration in addition to the registration fee which sum shall be deposited in the manner provided for in KRS 30A.120].

Section 7. KRS 235.110 is amended to read as follows:

(1) The owners shall cause to be painted on or attached to each side of the bow of the motorboat the identification number in such manner as may be prescribed by rules and regulations of the division in order that it may be clearly visible. The number shall be maintained in a legible condition. The certificate of number shall be pocket size and shall be available at all times for inspection on the motorboat for which issued, whenever such motorboat is in operation, *except as provided in KRS 235.230.*

(2) All numbers placed upon the bow of a motorboat subject to this numbering system shall be:

(a) Painted on, or attached to, each side of the bow (i.e. the forward half) of the vessel;

(b) Read from left to right;

(c) And in such position as to provide maximum visibility;

(d) In block letters of good proportion not less than three (3) inches in height;

(e) Have spaces that are equal to the width of a letter other than "I" or a number other than "1" between the letter and the number groupings (Example: KY 1234 A);

(f) Of a color which will contrast with the color of the background (i.e. dark numbers on a light background) and so maintained as to be clearly visible and legible.

(3) No number other than the number awarded to a motorboat or granted reciprocity pursuant to this chapter shall be painted, attached, or otherwise displayed on either side of the bow of such motorboat.

Section 8. KRS 235.120 is amended to read as follows:

The owner of any motorboat already covered by a number in full force and effect which has been awarded to it by the then operative federal law or a federally approved number system of another state shall record the number prior to operating the motorboat on the waters of this state in excess of the *sixty (60)* [ninety (90)] day reciprocity period provided for in KRS 235.210, the fee for such recordation being the same as for an original registration as provided for in KRS 235.080. Such recordation shall be in the manner and pursuant to the procedure required for the award of a number under KRS 235.050 to 235.070, except that no additional or substitute number shall be issued.

Section 9. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of number issued for that boat for the current period with a certificate of transfer indorsed thereon.

(2) It shall be the duty of the purchaser to record the indorsed certificate of number with the circuit court clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated *except as provided in KRS 235.060,* and to pay a transfer fee of one dollar ($1). The clerk thereupon shall forward the indorsed certificate of number and the transfer fee to the *department* [division of driver licensing. Upon receipt of the indorsed certificate the division shall thereupon issue a new certificate of number bearing the same date and information required on the original certificate of number except the change in owner's name and address]. The clerk shall charge the purchaser a fee of fifty cents. The fees provided in this section shall be deposited in the manner provided for in KRS 30A.120.

Section 10. KRS 235.150 is amended to read as follows:

(1) The *department or circuit clerk* [division of driver licensing] shall insofar as is practicable assign to each motorboat the number previously assigned thereto upon each subsequent registration.

(2) The certificate of number for a vessel not registered for three (3) consecutive years shall become invalid and that number shall become terminated insofar as that vessel is concerned. Vessels may be sold or transferred with their expired registration certificate for the purpose of pertinent information thereon. However, the clerk shall issue a new certificate of number to each vessel and the owner shall be required to remove the invalid number from the bow of the vessel and display the new number issued in accordance with the manner prescribed in KRS 235.110.

Section 11. KRS 235.160 is amended to read as follows:

All registration records of the *department* [division of driver licensing] made or kept pursuant to the issuance of a certificate of number shall be public records.

Section 12. KRS 235.190 is amended to read as follows:

(1) Any holder of a certificate of number shall notify the *department* [division of driver licensing] within fifteen (15) days if his address no longer conforms to the address appearing on the certificate and shall, as a part of such notification, furnish the *department* [division] with his new address. The division *of water enforcement* may provide in its rules and regulations for the surrender of the certificate bearing the former address and its replacement with a certificate bearing the new address or for the alteration of an outstanding certificate to show the new address of the holder.

(2) Any holder of a certificate shall give notice to the division of water enforcement within fifteen (15) days of the theft or recovery of a vessel to which he is the holder of the certificate of number.

Section 13. KRS 235.200 is amended to read as follows:

(1) Every vessel shall have aboard:

(a) Personal floatation devices of the type and quantity as prescribed by the U.S. Coast Guard;

(b) When in operation during hours of darkness, or during times of poor visibility, such lights as prescribed by regulations of the division of water enforcement;

(c) If carrying or using any inflammable or toxic fluid in any inclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person;

(d) Such additional equipment designed to promote the safety of navigation and of persons as the division of water enforcement may find to be appropriate and for which it has provided in its rules and regulations;

(e) If such motorboat is equipped with toilet facilities, a storage container or a treatment or disposal system of size and construction sufficient to protect and preserve the waters of this state from pollution. The storage container or treatment or disposal system shall conform to the construction, performance and utilization criteria as may be established by regulations promulgated pursuant to *this chapter* [KRS Chapter 224];

(f) The certificate number.

(2) Except during an authorized race or regatta, which shall include trial runs in preparation for such race or regatta to be conducted at a time and place designated by the division of water enforcement, it shall be illegal to operate any motor boat without an effective exhaust muffling system, or in any manner which renders the exhaust muffling system ineffective in muffling the sound of engine exhaust.

(3) No person shall operate or give permission for the operation of a motorboat which is not equipped as required by this section or modification thereof, or which is not safe for operation as a motorboat.

Section 14. KRS 235.210 is amended to read as follows:

(1) A motorboat shall not be required to be numbered under this chapter if it is:

(a) Already covered by a number in full force and effect which has been awarded to it pursuant to federal law or a federally approved numbering system of another state; Provided, That such boat shall not have been within this state for a period in excess of sixty (60) consecutive days;

(b) A motorboat from a country other than the United States temporarily using the waters of this state;

(c) A motorboat whose owner is the United States, a state or a subdivision thereof, except when such boat is leased to the public for compensation it must be registered according to KRS 235.080(2);

(d) A ship's lifeboat used or intended to be used as such;

(e) A motorboat belonging to a class of boats which has been exempted from numbering by the *department* [division of driver licensing] after said agency has found that the numbering of motorboats of such class will not materially aid in their identification; and, if an agency of the federal government has a numbering system applicable to the class of motorboats to which the motorboat in question belongs, after the division has further found that the motorboat would also be exempt from numbering if it were subject to the federal law.

(2) [With the exception of] Boats [documented by the federal government, boats] exempt from registration may be required by the *department* [division of water enforcement] to apply for an official identification number to be displayed in accordance with KRS 235.110.

Section 15. KRS 235.220 is amended to read as follows:

(1) Every manufacturer of, or dealer in motorboats in this state shall register with the *department of transportation* [division of driver licensing] at Frankfort, Kentucky, and pay an annual registration fee of twenty-five dollars ($25) to the *department* [division]. Upon receipt of this fee the *department* [division] shall issue to the manufacturer or dealer a certificate of number and a plate bearing the number assigned, which plate shall be so designed that it can be transferred from boat to boat. Every manufacturer or dealer registered under this section shall be furnished additional dealer certificates of number and plates upon the payment of two dollars ($2) for each additional certificate of number desired. A motorboat bearing dealer's plates and carrying a dealer's certificate of number may be used only by a member of the firm registered or by a bona fide salesman or employe of the firm for any purpose reasonably connected with the sale or demonstration for sale and delivery of the dealer's motorboat or by any manufacturer or dealer licensed as provided above in transporting any motorboat over the waters of this state to his place of retail business for the manufacturer or wholesale dealer in motorboats and for no other purpose.

(2) Every motorboat dealer or manufacturer who acquires a used motorboat for cash, trade-in or in any other manner, shall within fifteen (15) days from date of acquisition have the registration transferred to himself. All original and subsequent transfers shall be in accordance with the procedures set forth in KRS 235.130 and any rules and regulations subsequent thereto.

(3) The license of any dealer or manufacturer may be suspended or revoked by the department of transportation for a violation of any section of this statute. Such persons shall be afforded a full opportunity to defend himself against any such charges at a hearing set by this department.

Section 16. KRS 235.230 is amended to read as follows:

(1) The owner of a boat livery shall cause to be kept a record of the name and address of the person or persons hiring any vessel which is designed or permitted by him to be operated as a motorboat; the identification number thereof; and the departure time and date, and the expected time of return. The record shall be preserved for at least six (6) months.

(2) Neither the owner of a boat livery, nor his agent or employe shall permit any motorboat or any vessel designed or permitted by him to be operated as a motorboat depart from his premises unless it shall have been provided, either by owner or renter, with the equipment required pursuant to KRS 235.200 and any rules and regulations made pursuant thereto, *except that the operator need not have the certificate of registration in his possession.*

(3) The certificate of registration and number for vessels leased or rented by a livery may be retained on shore by the owner of the livery or his representative at the place from which the vessel departs or returns to the possession of the livery or his representative; provided, however, the operator shall have with him a

copy of the lease or rental agreement signed by the livery owner or an authorized representative of the livery and by the person leasing or renting the vessel that contains the vessel's number which appears on the certificate of number and the period of time for which the vessel is leased or rented.

Section 17. KRS 235.250 is amended to read as follows:

(1) It shall be the duty of the operator of a vessel involved in a collision, accident, or other casualty, so far as he can do so without serious danger to his own vessel, crew, and passengers (if any), to render to other persons affected by the collision, accident, or other casualty such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the collision, accident or other casualty, and also to give his name, address, and identification of his vessel in writing to any person injured and to the owner of any property damaged in the collision, accident, or other casualty.

(2) In the case of collision, accident, or other casualty involving a vessel, the operator thereof, if the collision, accident or other casualty results in death or injury to a person or damage to property in excess of one hundred dollars ($100) shall file with the division of water enforcement a full description of the collision, accident, or other casualty, including such information as said agency may, by regulation, require. *When the operator of a vessel, who is not the owner of it, cannot submit the casualty or accident report required by paragraph (1) of this section, the owner shall submit the casualty or accident report.*

Section 18. KRS 235.410 is amended to read as follows:

As used in KRS 235.410 to 235.470, unless the context clearly indicates otherwise, the following words shall have the following meanings:

(1) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the bureau of customs of the United States government or any federal agency successor thereto;

(2) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water;

(3) "Person" or "persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever;

(4) "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments, *vessels,* or other places, together with such industrial wastes, underground, surface, storm or other water, as may be present;

(5) "Industrial wastes" means liquid, or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resource;

(6) "Other wastes" means sawdust, bark or other wood debris, garbage, refuse, ashes, offal, tar, oil, chemicals, acid drainage and all other foreign substances not included within the above definitions of industrial wastes and sewage which may cause or contribute to the pollution of any waters of the commonwealth.

Section 19. KRS 235.420 is amended to read as follows:

No person shall discharge or permit the discharge of sewage, industrial wastes or other wastes to the waters of the commonwealth from any vessel except as specifically authorized by the department [for natural resources and environmental protection].

Section 20. KRS 235.430 is amended to read as follows:

No person shall dispose of sewage accumulated in a holding tank or other similar container on a vessel in such manner that the sewage reaches or may reach the waters of the commonwealth except through a disposal system or treatment works approved by the department [for natural resources and environmental protection].

Section 21. KRS 235.440 is amended to read as follows:

No motorboat equipped with marine toilet facilities shall be operated on the waters of the commonwealth unless such motorboat is equipped with a water pollution control device of one (1) of the following types:

(1) Holding tanks. Holding tanks approved for use as water pollution control devices shall meet the following criteria:

(a) Be so constructed and installed as to provide for discharge of its contents only by pumping and to eliminate discharges by gravity flow;

(b) Be constructed of materials capable of withstanding the corrosive effects of sewage and odor inhibitors;

(c) Be vented so as to prevent the escape of gases and odors to motorboat interiors.

(2) Incinerators. Incinerators approved for use as water pollution control devices shall meet the following criteria:

(a) Be so designed and constructed as to reduce sewage completely to an inert ash and provide a satisfactory means of ash removal;

(b) Be vented so as to prevent the escape of gases and odors to motorboat interiors and otherwise minimize the presence of objectionable conditions. Forced air ventilation must be provided for use at all times during the incineration operating cycle;

(c) Provide safeguards to minimize the dangers of shock or explosion from operation of the unit.

(3) Devices with effluent discharges. Types of water pollution control devices providing for discharges of treated sewage to the waters of the commonwealth shall be approved or disapproved on an individual basis by the department [for natural resources and environmental protection]. In approving or disapproving such types of devices the department [for natural resources and environmental protection] shall consider whether the quality of performance of the type of device has been certified by the national sanitation foundation or a comparable national testing agency approved by the department [for natural resources and environmental protection] as meeting its criteria, and the department [for natural resources and environmental protection] shall consider such other factors as it deems appropriate to prevent and abate water pollution. All water pollution control devices approved for use on motorboats with marine toilet facilities shall be maintained in satisfactory working condition at all times that the motorboat is in operation.

Section 22. KRS 235.450 is amended to read as follows:

For the purposes of KRS 235.440, a motorboat shall not be deemed to be equipped with marine toilet facilities if the facilities are rendered inoperable in a manner approved by the department [for natural resources and environmental protection].

Section 23. KRS 235.460 is amended to read as follows:

The department [for natural resources and environmental protection] shall, upon request, furnish interested persons a list of the approved types of water pollution control devices currently available and acceptable for use on motorboats on the waters of the commonwealth.

Section 24. KRS 235.470 is amended to read as follows:

The department [for natural resources and environmental protection] shall issue such regulations and standards and approve such equipment as may be necessary for the proper enforcement of the provisions of KRS 235.410 to 235.470.

SECTION 25. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

The person whose name appears on a certificate of number as the owner of a vessel shall remove the number and validation sticker from the vessel when:

(1) The vessel is documented by the Coast Guard; or
(2) The certificate of number is invalid under KRS 235.180; or
(3) The vessel is no longer principally used in the state where the certificate was issued.

SECTION 26. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) An appeal to the Franklin Circuit Court may be taken from any final order of the department by anyone who was a party to the proceedings before the hearing held by the department under the provisions of this chapter.

(2) An appeal may be taken by filing a petition of appeal with the clerk of the Franklin Circuit Court within twenty (20) days after the rendition of the final order of the department. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The appellant shall furnish a copy of the petition to each person who was a party to the hearing before the department. Summons shall be issued upon the petition directing the adverse party or parties to file answer within twenty (20) days after service of summons. The department shall, upon being served with the summons, and within thirty (30) days thereafter, file a copy of the record, duly certified by the secretary thereof, the cost of such record to be taxed as costs upon appeal. In lieu of filing of such record, an abstract thereof may be filed if agreed to by all parties to the hearing.

HB 383, AN ACT relating to certificates of environmental compatability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.025 is amended to read as follows:

(1) Notwithstanding any other provision of the law to the contrary, no person, partnership, public or private corporation or combination thereof shall begin the construction of any facility to be used for the

generation of electricity to or for the public for compensation without having first obtained from the Public Service Commission a certificate of Environmental Compatibility. This requirement shall not apply to such facilities for which an application for a certificate of convenience and necessity has been filed with, or granted by, the Public Service Commission prior to June 21, 1974.

(2) Prior to making application for such a certificate such person, partnership, public or private corporation or combination thereof shall submit to the Department for Natural Resources and Environmental Protection or any local pollution control district exercising concurrent jurisdiction with the Department a statement of Environmental Compatibility of the proposed site, *accompanied by a fee for evaluation of the proposed facility set pursuant to KRS 224.033(20).*

(3) The statement of Environmental Compatibility shall contain such information as the Department (or local pollution control district) considers necessary in making its report to the Commission including but not limited to the following:

(a) A complete description of the proposed project;

(b) Comments on the effects of air pollutants from the proposed facility on public health and welfare, the effects of the proposed facility on the waters of the Commonwealth, the treatment, handling and disposal of solid waste from the proposed facility, noise pollution if any, and other adverse environmental effects which cannot be avoided.

(4) The Department for Natural Resources and Environmental Protection (or any local pollution control district exercising concurrent jurisdiction with the Department) shall within sixty (60) days after receiving the statement of Environmental Compatibility report to the Public Service Commission any recommendation on or objections to the proposed facility. The Commission upon request by the Department may extend said sixty (60) day period for an additional thirty (30) days.

(5) On receipt of the report from the Department for Natural Resources and Environmental Protection (or the local pollution control district) or if the period for filing said report has expired without the receipt of such report, the Commission shall conduct a public hearing on the application which shall be open to all interested persons. For the purpose of this paragraph an "interested person" shall mean any person whose living environment would be affected by the construction of the proposed facility.

(6) In granting or denying the application for a certificate of Environmental Compatibility, the Commission shall consider the community needs, the industrial development, customer requirements and the economics of the facility, all of which shall be balanced against any adverse environmental factors.

The Committee on Business Organizations and Professions reported **HB 239, HB 250** with Committee Amendment attached thereto, **HB 404,** and **SB 132** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 239, AN ACT relating to the relocation of graves.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

If disinterment, removal, and reinterment is effected by the Commonwealth of Kentucky or any of its agencies, public institutions, or political subdivisions, the United States of America or any agency thereof, or any electric power or lighting company, such disinterment, removal, and reinterment shall be performed by a funeral director duly licensed under the provisions of KRS Chapter 316.

SECTION 2. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not affect grave removals for which contracts have been entered into prior to the effective date of this Act.

HB 250, AN ACT relating to architects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 323.030 is amended to read as follows:

(1) A nonresident licensed to practice architecture in his own state or country but not in the commonwealth and having no established place of business in the commonwealth may act solely as a consulting associate of an architect licensed in the commonwealth.

(2) An architect acting solely as an officer or employe of the United States government is not required to be licensed in the commonwealth.

(3) A licensed professional engineer may prepare plans and specifications for and supervise the construction of structures as an incident to the practice of his own profession.

(4) If the drawings and specifications are signed by the authors thereof with the true titles of their occupations as may be required by law, this chapter does not apply to:

(a) Any building which is to be used for farm purposes only;

(b) Any building containing not more than 20,000 square feet total floor area, except:

1. An asylum, hospital, nursing or convalescent home, or home for the aged, regardless of capacity;
2. A school or educational institution, regardless of capacity;
3. A residential building containing more than twelve (12) *living units* [bedrooms];
4. A place of assembly, regardless of capacity;
5. A mercantile building having a capacity in excess of one hundred (100) persons;
6. An industrial building having a capacity in excess of one hundred (100) persons; and
7. An office building having a capacity in excess of one hundred (100) persons

(c) Alterations to any building to which this chapter does not apply, if the alterations do not involve changes affecting structural safety.

The Committee Amendment to **HB 250** is as follows:

Amend printed copy of **HB 250,** page 2, line 7, by inserting after the word "units" the words "*not to exceed three bedrooms per living unit*".

HB 404, AN ACT relating to sales of merchandise.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.445 is amended to read as follows:

A license to conduct a sale issued pursuant to KRS 365.410 to 365.480 and 365.992 shall not be issued or valid for a period of more than thirty days from the start of the sale, and the sale may be conducted only during the period set forth in the license. The license may be renewed not more than *once* [twice] for a period not to exceed thirty days [for each renewal] upon affidavit of the licensee that all of the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to KRS 365.410 to 365.480 and 365.992, by purchase, acquisition on consignment or otherwise. The application for renewal of the license shall be made not more than thirteen days prior to the time of the expiration of the license and shall contain a new inventory of goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee of $25 shall accompany an application for the license and for each renewal of a license.

SB 132, AN ACT relating to detection of deception examiners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 329.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Detection of deception examiner," referred to in this chapter as "examiner," means any person, other than a trainee, who uses any device or instrument to test or question individuals for the purpose of detecting deception. *Before a person may be licensed as an examiner, he must have at least one (1) year's experience in detection of deception. Before an examiner may supervise a trainee, he must have at least two (2) year's experience in detection of deception.*

(2) "Trainee" means any person who *has successfully completed a polygraph examiner's course at a polygraph examiner's school approved by the department, but who has not been awarded the final certificate of proficiency or graduate certificate from the school, or any person, not a licensed examiner,* who administers detection of deception examinations under the *direct,* personal supervision and control of *a* [an] *licensed* examiner *who is licensed by this state. No examiner may have more than two trainees under his supervision and control at any one time.*

(3) "Person" means any natural person, partnership, association, corporation or trust.

(4) "Department" means the department of justice of the Commonwealth of Kentucky.

(5) "Secretary" means the secretary of the department of justice of the Commonwealth of Kentucky.

(6) "Polygraph" means an instrument which records permanently and simultaneously a subject's cardiovascular and respiratory patterns and other physiological changes pertinent to the detection of deception.

(7) "Polygraph examiner" means the same as detection of deception examiner.

Section 2. KRS 329.020 is amended to read as follows:

Every examiner shall use an instrument which records permanently and simultaneously the subject's cardiovascular and respiratory patterns as minimum standards, but such an instrument may record additional physiological changes pertinent to the detection of deception. *The patterns required as minimum standards will be recorded throughout the entire period of any detection of deception test.*

Section 3. KRS 329.030 is amended to read as follows:

(1) No person shall administer a detection of deception examination, as set forth in KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to the department within ten (10) days of the commencement of the trainee's internship, and said application shall contain such information as may be reasonably required by the department. *Each application for a trainee license or a renewal or extension shall be accompanied by a fee of $25.00, which is nonrefundable.* [The department shall issue the trainee license free of charge.] Each application for an examiner's license shall be made to the department in writing on forms provided by the department and shall contain such information as *may be* [is] required by the department to determine the eligibility of the applicant. Each application for an examiner's license shall be accompanied by a fee of *$50.00* [$20.00], which is nonrefundable.

(2) Each applicant for an examiner's license shall submit his fingerprints to the department together with a sworn affidavit that said applicant:

(a) Is a citizen of the United States;

(b) Is at least eighteen (18) years of age;

(c) Has administered detection of deception examinations for a period of at least *one (1) year* [two (2) years] using the instrumentation prescribed in KRS 329.020;

(d) Has completed a course of formal training in detection of deception in an institution accepted by the department; [and]

(e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the armed services of the United States, or any branch of the state, city or federal government*; and*

(f) Any other information required by the department to determine the examiner's competency to obtain a license to practice in this state.

(3) Upon receipt of an application for a trainee's license or for an examiner's license, the secretary shall investigate each application, and no license will be issued until said investigation is complete.

(4) The department shall establish such reasonable rules and regulations for the trainee during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the department.

(5) The department may require applicants for an examiner's license to pass an examination which shall be confined to such knowledge, practical ability and skill as is essential for performing the duties of a detection of deception examiner. The department shall make rules and regulations for conducting examinations and shall define the standards to be acquired to constitute passing the examination.

(6) The department shall establish such reasonable rules and regulations for the examiner during his period of licensure as may be reasonably necessary for the purpose of insuring that the examiner maintain adequate professional standards established by the department.

Section 4. KRS 329.040 is amended to read as follows:

(1) Each examiner's license shall be issued for the term of one (1) calendar year or for such part thereof as remains at the time of the issuance thereof. Each examiner's license shall be renewed during the month of December of each year, and each examiner's license not so renewed shall expire on December 31 of that year. A renewal fee of *forty dollars ($40)* [fifteen dollars ($15.00)] shall accompany each renewal application for the examiner's license.

(2) An examiner whose license has expired may, at any time within five (5) years after the expiration thereof, obtain a renewal license by making a renewal application therefor and by paying a renewal license fee for each year since the expiration of his license; Provided, however, any examiner whose license expired while he was (a) on active duty with the armed forces of the United States, or (b) called into service or training with the state militia, or (c) in a training or education program under the supervision of the United States preliminary to induction into the military service, may have his license renewed without paying any intervening renewal license fee if within two (2) years after termination of such service, training or education, except

under conditions other than honorable, he furnishes the department an affidavit to the effect that he has been so engaged and that his service, training or education has been so terminated. The secretary shall, before issuing the renewal license, investigate each applicant during the expiration period.

(3) Each trainee's license shall be issued for the term of *twelve (12)* [eighteen (18)] months. The department may renew or extend a trainee's license upon good cause shown for any term not to exceed *twelve (12)* [eighteen (18)] months. *The fee for renewal or extension of a trainee's license shall be $40.00.*

Section 5. KRS 329.050 is amended to read as follows:

(1) A license or duplicate license must be prominently displayed at each place of business of every examiner or trainee. The fee for a duplicate license is five dollars ($5.00). Each license shall be signed by the secretary and shall be issued under the seal of the department.

(2) Notice in writing shall be given to the department by such license holder of any change of principal business location, whereupon the department shall issue a new license for the unexpired period without charge. *Such notice shall be given within thirty (30) days after the change of the principal business location.* A change of business location without notification to the department and without the issuance by it of a new license shall automatically suspend the license theretofore issued.

Section 6. KRS 329.170 is amended to read as follows:

Subsection (1) of KRS 329.030, *subsections* [subsection] (1) *and (3)* of KRS 329.040 and subsection (1) of KRS 329.050, relating to fees charged applicants for a license, shall not apply to any department of the United States or any agency of the city, county or state of the Commonwealth of Kentucky provided that no fee is charged for administration of the test.

SECTION 7. A NEW SECTION OF KRS CHAPTER 329 IS CREATED TO READ AS FOLLOWS:

An applicant who is an examiner, licensed under the laws of another state or territory of the United States, may be issued a license without examination by the department, in its discretion, upon payment of a fee of $50.00, and the production of satisfactory proof:

(1) That the applicant is at least eighteen (18) years of age; and

(2) That the applicant is a citizen of the United States; and

(3) That he is of good moral character; and

(4) That the requirements for the licensing of examiners in such state or territory of the United States were at the date of licensing, substantially equivalent to the requirements then in force in this state; and

(5) That the applicant had lawfully engaged in the administration of polygraph examinations under the laws of such state or territory for at least two (2) years prior to his application for license hereunder; and

(6) That such other state or territory grants similar reciprocity to license holders of this state.

SECTION 8. A NEW SECTION OF KRS CHAPTER 329 IS CREATED TO READ AS FOLLOWS:

(1) In order to be recognized as an accepted training institution for detection of deception examiners by the department, a polygraph examiner's school must offer at least two hundred and forty (240) hours of classroom training and instruction consisting of, but not limited to, the following subjects:

(a) Instrumentation of the instrument prescribed in KRS 329.020;

(b) Psychology;

(c) Physiology;

(d) Question formulation;

(e) Chart interpretation;

(f) Interrogation;

(g) History and legal ethics of the polygraph;

(h) Supervised practice examinations; and

(i) Any other courses necessary to assure adequate training of detection of deception examiners.

(2) At the request of the department, a polygraph examiner's school must furnish the department with a course outline, the number of hours taught for each subject, the names and professional history of its owners, staff and instructors, and any other information required by the department so it may determine that the school is an acceptable training institution. Unless the requested information is furnished to the department and the school is accepted as a training institution, no graduate of the school may be licensed by the department.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 435.**

Counties and Special Districts: **HB 458, HB 398, HB 399, HB 400.**

Labor and Industry: **HB 409.**

State Government: **HB 374, HJR 35, HR 14, HR 47, HR 44, HB 193, HCR 45, SB 167.**

Business Organizations and Professions: **SB 123, HB 268.**

Health and Welfare: **HB 128, HB 233.**

Judiciary-Statutes: **HB 418, HB 419, HB 236, SB 172.**

Judiciary-Courts: **HB 467.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

State Government: **HB 279.**

Senate Message

Announcing passage of **SB 97, SB 165, SB 188, SJR 17, HB 23** with Amendment, **HB 142,** and **HB 155** with Amendments.

Calendar

SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 21, SB 25, SB 26, SB 27, SB 31, SB 33, SB 38, SB 41, and **SB 42** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 51** had been examined and found correctly enrolled. **SB 51** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications

Representative Siemens moved that the vote on **SB 76** be reconsidered and that it be placed in Orders of the Day.

On the roll call the vote was, Yeas 47-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Carpenter, Clarke, Cyrus, Davenport, DeFailaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Haering, Hancock, Hines, Holbrook, Isler, Jones, Kenton, Kidd, LeMaster, List, Mann, McBee, Petty, Priddy, B. Richardson, P. Richardson, Romines, Schmidt, Siemens, F. Smith, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Yates.Nays 29-Adams, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Craddock, Crupper, DeMarcus, Foster, Johnson, Little, Marcum, May, McKinney, McNutt, Morris, Overstreet, Patrick, Pearman, Rattliff, Richards, Riner, Robinson, Sale, R. Smith, Stone, White.

The motion that the vote on **SB 76** be reconsidered and that it be placed in Orders of the Day was adopted.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Burnette, Floor Amendment No. 1 to **HB 265;** Representative Hancock, **HB 321;** Representative Petty, **HB 332;** Representative Worthington, **HB 179.**

Representative Blythe moved that the rules be suspended for the purpose of considering a Resolution. Agreed.

Representative Blythe moved that the following **HR 41** be taken from Orders of the Day and placed before the House for consideration and adoption. Agreed.

HR 41, A RESOLUTION inviting John Y. Brown, Sr., to address the House of Representatives of the General Assembly.

WHEREAS, the Honorable John Y. Brown, Sr., has in the past addressed the General Assembly on the anniversary of the birth of Abraham Lincoln; and

WHEREAS, Mr. Brown's repertoire of oratory is exceeded by none other throughout this great Commonwealth; and

WHEREAS, John Y. Brown, Sr., once having donned the headgear of a locomotive engineer in this House of Representatives, now may engineer another of his remarkable Lincoln Day addresses; and

WHEREAS, it behooves all members of this great body to enjoy the remembrance of "The Great Emancipator" in a manner unlikely to be equaled throughout their days;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Honorable John Y. Brown, Sr., be and he hereby is invited to address the House of Representatives on Tuesday, February 14, 1978, in honor of Lincoln's birthday.

Section 2. That the Clerk is hereby directed to mail a copy of this resolution to the Honorable John Y. Brown, Sr.

HR 41 was adopted by voice vote.

The Honorable John Y. Brown, Sr. addressed the House in honor of the birthday of Abraham Lincoln.

Orders of the Day

Representative Holbrook moved that the rules be suspended to consider **HR 51.** Agreed.

Representative Holbrook moved that adoption of the following **HR 51:**

HR 51, A RESOLUTION to adjourn the House of Representatives in memory and honor of William C. Shattles.

WHEREAS, William C. Shattles served as a member of the Ashland Board of Education and as superintendent of Ashland schools; and

WHEREAS, William C. Shattles played a key role in the passage of a bond issue which resulted in the construction of Paul G. Blazer High School and Poage and Crabbe Elementaries; and

WHEREAS, William C. Shattles advanced education in Kentucky while serving in the Facilities Study Division of the Kentucky Department of Education and as director of Equal Education for Kentucky; and

WHEREAS, his accomplishments in the field of education have won him admiration and are worthy of notice and commendation by this body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Tuesday, February 14, 1978, it does so in honor and memory of William C. Shattles.

Section 2. That the clerk be directed to transmit a copy of this resolution to the family of William C. Shattles.

HR 51 was adopted by voice vote.

Orders of the Day

HB 150 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Amendment to **HB 150.** Agreed.

Representative Fitzgerald moved that **HB 150,** as amended, be passed.

On the roll call the vote was Yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 150, as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 150,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 182 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved that **HB 182** be passed.

On the roll call the vote was Yeas 90-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Ratliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Truner, Weinberg, Wells, Wilborn, Williams, Wright, Yates. Nays 2-Lindsay, Van Horn.

HB 182 was passed and the title greed to.

Representative Imes moved that the vote by which **HB 182** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 76, as amended, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **SB 76,** as amended, be passed.

On the roll call the vote was, Yeas 46-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Burch, Carpenter, Clarke, DeFailaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Haering, Hancock, Hines, Holbrook, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, List, Mann, McBee, Nett, O'Brien, Petty, Priddy, Romines, Schmidt, Siemens, F. Smith, Thomas, Trevey, Turner, Van Horn, Wells, Wilborn, Williams, Worthington, Yates. Nays 33-Adams, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Craddock, Cyrus, Davenport, DeMarcus, Deskins, Foster, Johnson, Layman, Little, Marcum, May, McKinney, McNutt, Morris, Noe, Pearman, Plummer, Ratliff, Richards, Riner, Robinson, Sale, R. Smith, Stone, White, Wright.

SB 76, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **SB 76,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 285, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 285** be passed.

On the roll call the vote was, Yeas 94-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 285 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 285** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 27, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its pasage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HR 27.** Agreed.

Representative B. Richardson moved that **HR 27** as amended be passed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to **HR 27:**

Amend printed copy of House Resolution 27, page 2, line 14, by deleting lines 14 through 16, and on line 17 after "Section" delete "3" and insert "2".

On the roll call the vote was Yeas 42-Adams, J. Allen, W. Allen, Bendl, Blythe, Boatwright, Brinkley, Burch, Burnette, Clarke, Crupper, Dawahare, DeFalaise, Deskins, Gay, Guenthner, Haering, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kleier, Layman, Lindsay, Little, Marcum, Maynard, Nett, Noe, Overstreet, Patrick, Pearman, Riner, Thomas, Trevey, Van Horn, Wilborn, Wright, Yates. Nays 49-Arnold, Bennett, Benson, Beshear, Blandford, Boswell, Bruce, Carpenter, Clapp, Craddock, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Hancock, Imes, Isler, Kenton, Kidd, LeMaster, Mann, McBee, McNutt, Morris, O'Brien, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Siemens, R. Smith, Stone, Turner, Weinberg, Wells, White, Williams, Worthington.

The Floor Amendment No. 1 to **HR 27** was rejected.

Representative B. Richardson moved the adoption of **HR 27.**

HR 27 was adopted by voice vote.

HR 28 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was Yeas 83-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 2-J. Allen, Little.

HR 28 was adopted.

HR 36 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was, Yeas 84-Adams, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cruppper, Cyrus, Davenport, DeFalasie, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 2-J. Allen, Little.

HR 36 was adopted.

HCR 33 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that **HCR 33** be pased.

Representative Wilborn moved that the rules be suspended for the purpose of making a motion to amend **HCR 33.**

On the roll call the vote was, Yeas 15-J. Allen, Bendl, Beshear, Crupper, Hancock, Hines, LeMaster, List, Maynard, Noe, Priddy, Schmidt, Thomas, Wilborn, Williams. Nays 55-Adams, W. Allen, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holloway, Imes, Johnson, Kenton, Kidd, Kleier, Layman, Marcum, McBee, McKinney, McNutt, Morris, Patrick, Pearman, Petty, Plummer, Richards, B. Richardson, Riner, Sale, F. Smith, R. Smith, Stewart, Stone, Turner, Van Horn, White, Wright.

The motion to suspend the rules was rejected.

Representative Beshear moved that **HCR 33** be laid on the Clerk's desk.

On the roll call the vote was, Yeas 41-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Brown, Burch, Carpenter, Clarke, Davenport, Dawahare, DeMarcus, Deskins, Gray, Haering, Hancock, Hines, Hurst, Isler, Johnson, Kidd, Lindsay, List, Little, Mann, Marcum, Maynard, McKinney, McNutt, Nett, Overstreet, Rattliff, Sale, Siemens, Stone, Thomas, Weinberg, Wilborn, Williams. Nays 45-Adams, W. Allen, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Craddock, Crupper, Cyrus, DeFalaise, Dietz, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Head, Holloway, Imes, Kenton, Kleier, Layman, McBee, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Schmidt, R. Smith, Stewart, Trevey, Turner, Van Horn, Wright.

The motion that **HCR 33** be laid on the Clerk's desk was rejected.

On the roll call the vote was, Yeas 66-Adams, J. Allen, W. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holloway, Hurst, Imes, Isler,Jones, Kenton, Kleier, Layman, Lindsay, Marcum, Maynard, McBee, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Wells, White, Worthington, Wright. Nays 15-Bendl, Benson, Beshear, Blythe, Clarke, Deskins, Fitzgerald, Hancock, Johnson, Little, Mann, McNutt, Weinberg, Wilborn, Williams.

HCR 33 was passed and the title agreed to.

Representative Burnette moved that the vote by which **HCR 33** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 39 with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Amendment No. 1 to **HB 39.** Agreed.

Representative Gray moved that **HB 39** as amended be passed.

On the roll call the vote was, Yeas 85-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, McBee, McKinney, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Haering.

HB 39, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 39,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 72** and **HB 142** had been examined and found correctly enrolled. **HB 72** and **HB 142** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

SB 43 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 43** be passed.

On the roll call the vote was, Yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Trevey, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 6-Bennett, Beshear, Davenport, Deskins, Little, Van Horn.

SB 43, was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 43** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 69 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SB 69** be passed.

Representative Adams moved the adoption of the following Floor Amendment No. 1 to **SB 69:**

Amend printed copy of Senate Bill 69, page 1, line 17, by inserting after the words "*pocket knife*" the words "*or hunting knife*".

Agreed.

Representative B. Richardson moved that **SB 69,** as amended, be passed.

On the roll call the vote was, Yeas 72-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Van Horn, Wells, Williams, Wright, Yates. Nays 14-J. Allen, W. Allen, Clarke, Crupper, Cyrus, Deskins, Fitzgerald, Layman, Overstreet, Patrick, Robinson, Trevey, White, Wilborn.

SB 69, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 69,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

The Speaker Pro Tempore Clapp assumed the Chair.

Announcements

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 516, by Representative Thomas: AN ACT relating to boards of education.

HB 517, by Representatives Boswell, Blandford, Bruce, Clapp, Guy, Morris, Pearman and Petty: AN ACT relating to motor vehicle registration fees.

HB 518, by Representative Fitzgerald: AN ACT relating to mortgage liens and their priorities.

HB 519, by Representative Fitzgerald: AN ACT relating to recordability of mortgages.

HB 520, by Representative Crupper, P. Richardson, Brown, Carpenter, Dietz, Hancock, Schmidt and Van Horn: AN ACT relating to roads.

HB 521, by Representative Morris: AN ACT relating to wills.

HB 522, by Representatives McBee, Benson, Crupper, Dietz, Donnermeyer, DeFalaise, Isler, Mann, Petty and Schmidt: AN ACT relating to carrying and possession of firearms, deadly weapons and destructive devices on airport property.

HB 523, by Representative Benson: AN ACT relating to sinking funds in cities of the first class.

HB 524, by Representative Benson: AN ACT relating to district court.

HB 525, by Representative Benson: AN ACT relating to theft by unlawful taking or disposition.

HB 526, by Representatives Bennette and Benson: AN ACT relating to county law libraries.

HB 527, by Representatives Cyrus, Brinkley, Brown and Holbrook: AN ACT relating to employes of the bureau of state police.

HB 528, by Representatives W. Allen and Cyrus: AN ACT relating to motor vehicles.

HB 529, by Representative Trevey: AN ACT relating to motor vehicles.

HB 530, by Representatives Wiliams and Benson: AN ACT relating to the criminally insane.

HB 531, by Representatives Williams and Benson: AN ACT relating to mentally retarded persons.

HB 532, by Representatives Haering, Nett, Arnold, Donnermeyer, Johnson and Wright: AN ACT relating to fire safety.

HB 533, by Representative White: AN ACT relating to school taxation.

HB 534, by Representatives Carpenter, Arnold, Blandford, Crupper, Fitzgerald, LeMaster, Overstreet, Petty, P. Richardson and Wells: AN ACT relating to pesticide applicators.

HB 535, by Representative Carpenter: AN ACT relating to planning and zoning.

HR 53, by Representative Hancock: A RESOLUTION recognizing Capital EXPO and encouraging statewide support.

HCR 54, by Representatives P. Richardson, Crupper, Brown, Arnold and Wells: A CONCURRENT RESOLUTION inviting Mr. Joseph A. Califano to address a Joint Session of the General Assembly.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **HB 473, HB 424, HB 311.**

Education: **HB 459.**

Banking and Insurance: **HB 337, SB 95.**

Cities: **HB 354, HB 314, HJR 13, SB 37.**

State Government: **HB 469, HB 434, HB 465, HCR 48.**

Appropriations and Revenue: **HB 264, HB 168.**

Health and Welfare: **HB 19.**

The Clerk announced the following Bills and Resolutions have been withdrawn from Committee consideration:

Appropriations and Revenue: **HB 61.**

Health and Welfare: **HB 21, HB 158.**

Announcements (continued)

Representative Craddock requested that she be recorded as voting "yea" on **HR 27.**

Representative Burch requested that he be recorded as voting "yea" on **HB 39.**

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HCR 33** by Representative Wilborn.

Floor Amendment No. 4 to the Committee Substitute to **HB 51** by Representative Wilborn.

Floor Amendment No. 1 to the Committee Substitute to **HB 102** by Representative Lindsay.

Floor Amendment No. 2 to the Committee Substitute to **HB 102** by Representative Adams.

Floor Amendment No. 1 to **HB 215** by Representative McBee.

Floor Amendment No. 2 to **HB 318** by Representative Lindsay.

Floor Amendment No. 2 to **HB 215** by Representative McBee.

Floor Amendment No. 1 to **HB 352** by Representative Weinberg.

Floor Amendment No. 1 to **SB 104** by Representative Clapp.

Floor Amendment No. 2 to **SB 104** by Representative Noe.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 15, 1978.

On the roll call the vote was, Yeas 40-Bennett, Benson, Beshear, Boswell, Cyrus, Davenport, DeFalaise, DeMarcus, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Isler, Johnson, Jones, Kidd, Layman, List, Mann, Marcum, Maynard, McBee, Pearman, Petty, Plummer, B. Richardson, Riner, Robinson, Sale, Schmidt, Stewart, Stone, Turner, Van Horn, Wilborn. Nays 8-Blythe, Brinkley, Cruppper, Fitzgerald, Guenthner, Imes, Nett, P. Richardson.

The motion to adjourn was adopted.

WEDNESDAY, FEBRUARY 15, 1978

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The Roll was called. All present except Representative Blythe.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Stone moved that the reading of the Journal of February 14, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 536, by Representative Johnson: AN ACT relating to attendance records.

HB 537, by Representative Weinberg: AN ACT relating to education.

HB 538, by Representatives Noe, F. Smith, Dawahare, Stone and Weinberg: AN ACT relating to public utility rates.

HB 539, by Representative Weinberg: AN ACT assigning the classification of the City of Neon-Fleming, in Letcher County.

HB 540, by Representatives Blandford, Bruce, Boswell, Arnold, Crupper, Pearman, Petty and Stone: AN ACT relating to agriculture.

HB 541, by Representative Kenton: AN ACT relating to the civil air patrol.

HB 542, by Representative Kenton: AN ACT relating to Kentucky national guardsmen and making an appropriation therefor.

HB 543, by Representative Kenton: AN ACT relating to the Kentucky national guard.

HB 544, by Representative Fitzgerald: AN ACT relating to county and commonwealth's attorneys.

HB 545, by Representatives Kenton and B. Richardson: AN ACT relating to security for the general assembly and the legislative research commission.

HB 546, by Representative B. Richardson: AN ACT relating to revenue and taxation.

HB 547, by Representative B. Richardson: AN ACT relating to utilities.

HB 548, by Representatives Burch, Bennett, Benson, Kleier, Hines, Priddy, Williams and Yates: AN ACT relating to thoroughbred and appaloosa racing.

HB 549, by Representatives Dunn, Romines, Bendl, Bennett, Benson, Blythe, Burch, Haering, Hines, Holloway, Kidd, Kleier, Guenthner, Maynard, Nett, O'Brien, Priddy, Riner, Siemens, Williams, Wright and Yates. AN ACT relating to school board elections.

HB 550, by Representatives Dunn, Bennett, Bendl, Benson, Burch, Guenthner, Haering, Hines, Holloway, Kidd, Kleier, Maynard, Nett, O'Brien, Priddy, Riner, Romines, Siemens, Williams and Wright: AN ACT relating to elections.

HB 551, by Representatives Bennett and Van Horn: AN ACT relating to prevailing wages for construction of public works.

HR 55, by Representative Nett: A RESOLUTION honoring Diane Bain and Larry Thomas.

HCR 56, by Representatives Romines, Priddy, Pearman, J. Allen, Arnold, Bennett, Benson, Blandford, Boatwright, Brinkley, Brown, Bruce, Burnette, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Head, Hines, Imes, Isler, LeMaster, List, Little, Mann, Marcum, Maynard, McKinney, McNutt, Morris, Noe, Overstreet, Patrick, Petty, Plummer, Richards, Riner, Robinson, Sale, Schmidt, Stewart, Stone, Thomas, Turner, Van Horn, Worthington and Yates: A CONCURRENT RESOLUTION memorializing the Congress of the United States to implement changes needed in the military code to regulate medical benefits for retired military personnel, and to induce the voluntary service of medical oriented personnel.

Senate Message

Announcing passage of **SB 60, SB 110, SB 112, SB 158, SB 181, SB 198, HB 145**, and **HB 119** with amendment.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 534.**

Appropriations and Revenue: **HB 476, HB 477, HB 502, HB 504, HB 533.**

Banking and Insurance: **HB 481, HB 486, HB 489, HB 491.**

Cities: **HB 495, HB 512, HB 523, SB 165.**

Counties and Special Districts: **HB 474, HB 492, HB 506, HB 514, HB 535, SB 188.**

Education: **HB 475, HB 478, HB 485, HB 509, HB 516.**

Elections and Constitutional Amendments: **HB 515, HR 52.**

Health and Welfare: **HB 493, HB 497, HB 510, HB 530, HB 531, HB 532, SB 97.**

Highways and Traffic Safety: **HB 520, HR 49, HR 50.**

Judiciary-Courts: **HB 524, HB 526.**

Judiciary-Statutes: **HB 482, HB 483, HB 484, HB 487, HB 490, HB 494, HB 498, HB 499, HB 501, HB 505, HB 507, HB 511, HB 518, HB 519, HB 521, HB 522, HB 525.**

Public Utilities and Transportation: **HB 488, HB 500, HB 503, HB 508, HB 517, HB 528, HB 529.**

State Government: **HB 479, HB 480, HB 496, HB 513, HB 527, HR 53, HR 54, SR 17.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 132, HB 335, HB 396, HB 411, HB 453.**

State Government: **HB 333, HB 321, HB 331, HB 313, HB 446, HB 447, HB 448, HB 449, HB 450.**

Cities: **HB 439.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 210** and **HB 360** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 210, AN ACT relating to gasoline and special fuels tax credits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.695 is amended to read as follows:

(1) Every licensee subject to the tax imposed by subsections (1) and (2) of KRS 138.660 shall be entitled to a credit for each quarterly period beginning on and after July 1, 1972, equivalent to nine cents per gallon on gasoline and nine cents per gallon on special fuels purchased by such licensee during such period for use in its operations, provided such gasoline and special fuels were purchased in Kentucky during the same period and the tax imposed by KRS 138.220 and KRS 138.565 has been paid. Evidence of the payment of such tax in such form as may be required by or satisfactory to the bureau shall be furnished by each such licensee claiming the credit herein allowed.

(2) The bureau shall at the close of each quarterly period, ending September 30, December 31, March 31, and June 30, compute all credits granted by the bureau during such quarter, which credits shall be except as provided in subsection (3), applied only to taxes due on the report filed for the next quarter.

(3) If the credit or credits referred to in subsections (1) and (2) would expire solely by reason of the lapse of time allowed in subsection (2), then the balance of any credit shall be refunded to the licensee, [to the extent of ninety percent of such balance,] provided application therefor and all necessary information shall be filed with the bureau within sixty days after the time the credit would otherwise expire as provided in subsection (2) except a credit shall not be refunded to the licensee, where, as estimated by the bureau, the cost to the bureau of making the refund would exceed the amount of the refund.

(4) In order to facilitate administration of the credits and refunds allowed herein, the bureau shall prescribe what records must be kept by the licensee or any other person and the bureau shall also prescribe the form and content of said records and any reports to be made relative thereto.

HB 360, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850; and

(11) Tombstones and other memorial grave markers.

(12) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids.

Section 2. KRS 139.495 is amended to read as follows:

(1) The taxes imposed by this chapter shall apply to resident, nonprofit educational, charitable, and religious institutions *which have qualified for exemption from income taxation under section 501(c)(3) of the internal revenue code* as follows:

(a) Tax does not apply to sales of tangible personal property or services to such institutions provided the property or service is to be used solely within the educational, charitable, or religious function.

(b) *Tax does not apply to sales of food to students in school cafeterias or lunchrooms* [Sales made by such institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210. However, where cafeterias or lunchrooms operated by educational institutions are not open to the public, tax does not apply to sales of food to students].

(c) Tax does not apply to sales by school bookstores of textbooks, workbooks, and other essential educational supplies.

(d) All other sales made by nonprofit educational, charitable, and religious institutions are taxable and the tax may be passed on to the customer as provided in KRS 139.210.

Section 3. KRS 139.474, relating to state owned and operated college bookstores competing with off-campus privately operated stores subject to tax, is repealed.

The Committee on Cities reported **HB 45** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 45, AN ACT relating to rental agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 383.715 is amended to read as follows:

[(1) The provisions of KRS 383.505 to 383.715 shall apply only to Counties containing cities of the First Class and Urban-County Governments.

(2)] KRS 383.505 to 383.715 shall be known and may be cited as the "Uniform Residential Landlord and Tenant Act."

The Committee on Education reported **HB 231** with Committee Amendment attached thereto, **HB 340, HJR 16, SB 36,** and **SB 40** with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 231, AN ACT relating to insurance programs for certified employes of boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.158 is amended to read as follows:

(1) Each district board of education may form its employes into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance or any group insurance plans to aid its employes, as long as the employes continue to be employed by the board of education. *Medical and dental group insurance plans obtained under authority of this section may include*

insurance benefits for the families of the insured group or groups of employes. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employes that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits.

(2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employes or groups of employes whenever a request is presented to the board by said employes or groups thereof. Such deductions shall be made from salaries earned in at least eight different pay periods, and shall be remitted to the appropriate organization or association as specified by the employes. The deductions may be made for, but are not limited to, membership dues, tax sheltered annuities and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one remittance, of amounts deducted during a pay period, for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, said board shall bear no further responsibility or liability for subsequent transaction.

(3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools; and the payments and deductions do not affect the eligibility of any school system to participate in the foundation program as established in KRS chapter 157.

The Committee Amendment to **HB 231** is as follows:

Amend printed copy of **HB 231,** by deleting the word "certified" from the title.

HB 340, AN ACT relating to suspension or expulsion of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.370 is amended to read as follows:

Each board of regents may invest the faculty or a committee of the faculty *and students* with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student the person suspended or expelled may appeal to the board of regents. The board of regents shall prescribe the manner and the mode of procedure on appeal. The decision of the board of regents shall be final.

HJR 16, A JOINT RESOLUTION directing the Council on Higher Education to develop a proposal to equalize retirement contributions and benefits.

WHEREAS, a number of inequities exist in the retirement systems currently in effect at the state institutions of higher education;

WHEREAS, the institutional matching funds are actually fringe benefits for the employee; and

WHEREAS, inequities in retirement systems result in inequities in employe fringe benefits;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Council on Higher Education be directed to develop a proposal to equalize employer contributions to the retirement system among the state institutions of higher education.

Section 2. That the proposal include a method for equalizing employe contributions and benefits among the state institutions of higher education.

Section 3. That the Council submit the proposal to the Legislative Research Commission no later than January 1, 1979.

SB 36, AN ACT relating to disposition of school districts upon consolidation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.300 is hereby repealed.

SB 40, AN ACT relating to the transfer of school property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.049 is hereby repealed.

The Committee on Highways and Traffic Safety reported **HB 211** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 211, AN ACT relating to fiscal courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.390 is amended to read as follows:

(1) No operator of a vehicle upon a highway shall drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(2) Where no condition exists that requires lower speed for compliance with subsection (1) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(a) For all vehicles other than motor trucks, semitrailer trucks, or motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district, sixty (60) miles per hour in other locations during the daytime and fifty (50) miles per hour in other locations during the nighttime;

(b) For motor truck and semitrailer trucks, thirty-five (35) miles per hour in any business or residential district, fifty (50) miles per hour in other locations.

(c) For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location.

(d) All vehicles, when using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour.

(3) Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or upon any part of a state highway within or without the corporate limits of a municipality, said secretary of transportation may determine and establish by official order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or part of the state highway. In no event, however, shall said secretary increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(4)(a) Whenever municipal authorities or the *fiscal court of any county* [county court of any county containing a city of the first class or second class] determine upon the basis of an engineering and traffic investigation that the speed permitted under subsection (2) of this section is greater or less than is reasonable or safe under the conditions found to exist, at any location within the municipality or unincorporated areas of such county, such municipal authority or *fiscal* [county] court, subject to paragraph (b) of this subsection, shall determine and authorize by ordinance or order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such times as may be determined when appropriate signs giving notice thereof are appropriately erected at such location. In no event, however, shall said municipal authority or *fiscal* [county] court increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(b) Alteration of speed limits on state highways within a municipality by municipal authorities or within the unincorporated areas of counties [containing a city of the first class or second class] by *fiscal* [county] courts thereof shall not be effective until such alteration has been approved by the secretary of transportation. In no event shall said secretary approve any alteration which could increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of sixty (60) miles per hour.

(c) Whenever the *fiscal* [county] court of any county [containing a city of the first class or second class] determines upon the basis of an engineering and traffic investigation and study that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce such congestion, then the *fiscal* [county] court may by order establish "no parking" areas on and along said highway, or limit the length of time any motor vehicle may be parked in any business district, which order or orders shall be effective at all times and during hours of daytime or nighttime and at such other times as may be determined when appropriate signs giving notice thereof are erected at such locations.

(d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish, by official order, reasonable and safe speed limits on turnpikes and limited access state highways not to exceed seventy (70) miles per hour.

(5) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(6) In every charge for a violation of any speed limit specified in this section or established as herein authorized, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, also the lawful speed limit applicable at the location where the violation is charged to have occurred.

(7) As used in this section, the following words and phrases shall have the meanings respectively ascribed to them:

(a) "Business district," the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes which occupy 300 feet of frontage on one side or 300 feet collectively on both sides of the highway;

(b) "Residential district," the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business;

(c) "State highway," a highway or street maintained by the bureau of highways;

(d) "Nighttime," the period from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, and at such other periods as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period; "daytime" means at any other period.

(8) The signs and notices which the *fiscal court* [county judge] is authorized hereby to have erected shall be paid for by the fiscal court of the county levy.

The Committee on Judiciary-Courts reported **HB 280** with Committee Amendment attached thereto, **SB 50,** and **SB 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 280, AN ACT relating to wills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 394.040 is amended to read as follows:

No will is valid unless it is in writing with the name of the testator subscribed thereto by himself, or by some other person in his presence and by his direction. If the will is not wholly written by the testator, the subscription shall be made or the will acknowledged by him in the presence of at least two credible witnesses, who shall subscribe the will with their names in the presence of the testator,*and in the presence of each other*.

Section 2. KRS 24A.120 is amended to read as follows:

District court shall have exclusive jurisdiction in:

(1) Civil cases in which the amount in controversy does not exceed one thousand five hundred dollars ($1,500), exclusive of interest and costs except matters affecting title to real estate and matters of equity; and

(2) Matters involving probate, except matters contested in an adversary proceeding. Such adversary proceeding shall be filed in circuit court in accordance with the Kentucky Rules of Civil Procedure and shall not be considered an appeal.

(3) *The original will and other* papers relating to uncontested probate matters shall be filed in the office of the county [court] clerk. *A verified copy of the will shall be filed with the circuit clerk.* In the event a probate matter is contested, the Supreme Court shall by rule provide for *the* filing *of* duplicate papers, *and the original will if necessary,* in *the* circuit [and county] clerk's *office* [offices].

The Committee Amendment to **HB 280** is as follows:

Amend printed copy of **HB 280,** page 1, lines 12 through 21, to delete the same and on page 2, lines 1 through 10, to delete the same.

SB 50, AN ACT relating to furnishing books and other publications to justices and judges of the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 57.340 is amended to read as follows:
On a certificate from any circuit judge *or district judge* that he does not have a copy of the latest revision of the statutes and annotations thereto, rules of practice and procedure, or compilation of administrative regulations, or that his copy has been lost, mutilated or torn, the state law librarian shall furnish to the [circuit clerk for the use of the circuit] judge a copy of the publication needed and shall furnish from time to time supplements issued to these publications. The law librarian shall certify the cost of such books to the executive department for finance and administration, which shall issue its warrant on the state treasurer for the amount, payable out of funds appropriated for that purpose.

Section 2. KRS 57.380 is repealed.

SB 153, AN ACT relating to the compensation and mileage allowance for witnesses in the Circuit and District Courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 421 IS CREATED TO READ AS FOLLOWS:
A witness who resides in a county other than that to which he is subpoenaed shall be allowed the same amount allowed state employees under KRS 44.060.

Section 2. KRS 421.010 and 421.020 are repealed.

Section 3. Whereas, certain changes have already been made in the court of justice affecting the fees paid to a witness, an emergency is declared to exist and Sections 1 and 2 shall become effective on January 1, 1978.

The Committee on Judiciary-Statutes reported **HB 251** with Committee Amendment attached thereto, **HB 307,** and **HB 395** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 251, AN ACT relating to products liability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:
In any products liability action, if a manufacturer is one who manufactures a product to be used by a manufacturing facility and not to be sold at retail for use by a consumer, it shall be a defense that the product was manufactured according to the buyer's specifications and the seller shall not be liable unless he breached an express warranty or knew the purpose for which the product is to be used and knew or should have known that the product was in a defective condition unreasonably dangerous to the user.

The Committee Amendment to **HB 251** is as follows:

Amend printed copy of **HB 251,** page 1, line 5, by inserting after the word "sold" the following: "nor to be used as a part or an item to be sold"

and on line 6 by inserting after the word "defense" the following: "as between a manufacturer and his sub-manufacturer"

and on line 10 by deleting the word "and" and inserting in lieu thereof the word "or" and on line 11 by deleting the words "unreasonably danger-"

and on line 12 by deleting the words "ous to the user"

HB 307, AN ACT relating to criminal offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 511 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of illegal possession of theft devices when, without lawful authority he possesses:

(a) A key or other device specifically designed to open or break any parking meter, coin telephone, or other vending machine dispensing goods or services; or

(b) A print or mold of a key or other device prohibited by subsection (a) of this section.

(2) Illegal possession of theft devices is a Class A misdemeanor.

HB 395, AN ACT relating to discharge of liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.290 is amended to read as follows:

(1) In recording mortgages and deeds in which liens are retained (except railroad mortgages securing bonds payable to bearer), there shall be left a blank space immediately after the record of the deed or mortgage of at least two full lines for each note or obligation named in the deed or mortgage.

(2) When any note named in any deed or mortgage is assigned to any other person, the assignor may, over his own hand, attested by the clerk, note such assignment in the blank space, and when any one or more of the notes named in any deed or mortgage is paid, or otherwise released or satisfied, the holder of the note, and who appears from the record to be such holder, may, *at the option of the county clerk,* release the lien, so far as such note is concerned, by release, over his own hand, attested by the clerk.

(3) No person who does not, from such record or assignment of record, appear at the time to be the legal holder of any note secured by lien in any deed or mortgage, shall be permitted to release the lien securing any such note, and any release made in contravention of this section shall be void; but this section does not change the existing law if no such entry is made.

(4) For each assignment and release so made and attested by the clerk, he may charge a fee of twenty-five cents to be paid by the person executing the release or noting the assignment.

(5) If such assignment of a note is made by separate instrument or by deed assigning the note, the instrument of writing or deed shall set forth the date of notes assigned, a brief description of notes, the name and post office address of assignee, and the deed book and page of the instrument wherein the lien or mortgage is recorded and the clerk or deputy clerk receiving such instrument of writing or deed of assignment for record shall immediately endorse at the foot of the record in the space provided in subsection (1), "The notes mentioned herein (giving a brief description of notes assigned) have been transferred and assigned to (insert name and address of assignee) by deed of assignment (or describe instrument) dated and recorded in deed book .... page ....," and attest such certificate. For making such notation on the record the clerk shall be allowed a fee of twenty-five cents for each notation so made, to be paid by the party filing the instrument of writing or deed of assignment.

(6) No holder of a note secured by lien retained in either deed or mortgage shall lodge for record, and no clerk or deputy clerk shall receive and permit to be lodged for record, any deed or instrument of writing that does not comply with the provisions of this subsection.

Section 2. KRS 382.360 is amended to read as follows:

(1) Liens by deed or mortgage, *at the option of the county clerk,* may be discharged by an entry acknowledging their satisfaction on the margin of the record thereof signed by the person entitled thereto, or his personal representative, and attested by the clerk, or may be discharged by a separate deed of release, which shall recite the date of the instrument and deed book and the page wherein it is recorded. Such release in the case of a mortgage or deed of trust shall have the effect to reinstate the title in the mortgagor or grantor or person entitled thereto.

(2) If a lien or mortgage is released by a deed of release, the clerk shall immediately endorse on the margin of the record wherein the lien is retained "Released by deed of release (stating whether in whole or in part) lodged for record (giving date, deed book and page wherein such deed of release may be found)" and the clerk shall also attest such certificate.

The Committee on Labor and Industry reported **HB 209, HB 316,** and **HB 358** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to deductions from wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:

No employer shall withhold from any employe any part of the wage agreed upon. [In case of any wage agreement arrived at through collective bargaining, no employer shall wilfully with intent to defraud any person, withhold from any employe any part of the wage agreed upon.] This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by *local,* state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

HB 316, AN ACT relating to restriction of work on certain days.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 436.160 is amended to read as follows:

(1) Any person who works on Sundays at his own or at any other occupation or employs any other person, in labor or other business, whether for profit or amusement, unless his work or the employment of others is in the course of ordinary household duties, work of necessity or charity or work required in the maintenance or operation of a public service or public utility plant or system, shall be fined not less than two dollars nor more than fifty dollars. The employment of every person employed in violation of this subsection shall be deemed a separate offense.

(2) Persons who are members of a religious society which observes as a Sabbath any other day in the week than Sunday shall not be liable to the penalty prescribed in subsection (1) of this section, if they observe as a Sabbath one day in each seven.

(3) Subsection (1) of this section shall not apply to amateur sports, athletic games, or operation of grocery stores whose principal business is the sale of groceries and related food items, drug stores whose principal business is the sale of drugs and related drug items, gift shops, souvenir shops, fishing tackle shops and bait shops, moving picture shows, chautauquas, filling stations or opera.

(4) Subsection (1) of this section shall not apply to employers using continuous work scheduling provided that such scheduling permits at least one (1) day of rest each calendar week for each employe.

HB 358, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the state treasury an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The state treasurer shall be the custodian of the fund and all moneys and securities in the fund shall be held in trust by the state treasurer and shall not be considered a part of the general funds of the state.

(2) The state treasurer is authorized to disburse moneys from the fund only upon written order of the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund. There shall initially be transferred to the fund from the maintenance fund beginning January 1, 1973, the sum of $100,000.

(4) Upon the action taken in subsection (3) the uninsured employers' fund will become operative, compensation thereafter shall be paid from it when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of the amounts authorized to be paid therefrom under the authority of

this subsection and for the purposes of enforcing this liability the board, for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation.

(5) In furtherance of this purpose, the attorney general shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The attorney general's office shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) If at any time the *assets of the uninsured employers' fund fall below $50,000* [charges against the uninsured employers' fund exceed the assets of said fund], the board, with approval of the commissioner of the executive department for finance and administration and commissioner of labor, may transfer sufficient moneys from the maintenance fund to the uninsured employers' fund in order to honor claims filed against said uninsured employers' fund and to provide for the administration of the fund.

The Committee on State Government reported **HB 297, HB 301** with Committee Amendment attached thereto, **HB 378,** and **HR 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 297, AN ACT relating to opinions issued by the Attorney General.

WHEREAS, opinions of the Attorney General, while well researched, considered and written; and

WHEREAS, public officials and others have come to reply upon the opinions as law; and

WHEREAS, the opinions of the Attorney General have always been considered by the Attorney General as advisory in nature; and

WHEREAS, the situation has created confusion as to the true status of Attorney General's Opinions;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

Opinions of the attorney general issued pursuant to KRS 15.020 and 15.025 shall be considered as advisory only and shall not be considered as binding upon any public official or other person, nor shall they have the force and effect of law.

HB 301, AN ACT relating to oaths.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.010 is amended to read as follows:

(1) No officer shall enter upon the duties of his office until he takes the oath required of him by law.

(2) Each person elected to an office shall take the oath of office on or before the day the term of office to which he has been elected begins, *however, members of the general assembly shall not be required to take their oaths of office before the first day of a regular legislative session.*

(3) Each person appointed to an office shall take the oath of office within thirty (30) days after he receives notice of his appointment.

Section 2. KRS 62.990 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 62.010 or subsection (1) of KRS 62.050 shall be fined not less than fifty (50) nor more than one hundred dollars ($100) and removed from office by the judgment of conviction.

(2) If any person *other than a member of the general assembly* violates subsection (2) or (3) of KRS 62.010, or subsection (2) or (3) of KRS 62.050, his office shall be considered vacant [and he shall not be eligible for the same office for two (2) years].

The Committee Amendment to **HB 301** is as follows:

Amend printed copy of **HB 301,** on page 1, line 5, by placing a bracket before the "(2)";

and on line 7, by placing a "]" after the word "begins" and deleting the remainder of line 7;

and on lines 8 through 10, by deleting the lines in their entirety;

and on line 11, by inserting at the beginning of the line the number "*(2)*" and by bracketing the number "(3)";

and by inserting after line 15 the following: "*Any action by a person subject to the provisions of subsection (1) of KRS 62.010 or subsection (1) of KRS 62.050 shall be invalid unless such provisions are complied with.*";

and by placing a bracket at the beginning of line 16;

and on line 21 by deleting everything after the word "person";

and on page 2, line 1, by deleting "*eral assembly*";

and on line 3 by removing the bracket after the word "vacant".

HB 378, AN ACT relating to the construction and financing by the state of public buildings and improvements in the capital city.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) When the department finds that the general welfare of the state capitol and its environs and the public purposes of the Commonwealth would be promoted by the construction of buildings and improvements on land owned by the Commonwealth in the vicinity of and complimentary to the capital plaza in the capital city, it may, in addition to any other methods prescribed by law, authorize the construction of such buildings and improvements as provided in this section.

(2) The costs of constructing buildings and improvements determined to be needed by the department under this section may be paid in whole or in part (a) out of funds specifically appropriated for the construction of such buildings and improvements, or (b) out of funds derived or which may be derived from the issuance and sale as of revenue bonds as authorized by this chapter or by KRS Chapter 58, or (c) by private capital under a conveyance and leaseback agreement as authorized by this section, or (d) by any or a combination of said methods.

(3) When the department authorizes the construction of buildings and improvements under this section, the costs of which are proposed to be financed wholly by private capital under a conveyance and leaseback agreement, or partly by private capital in combination with any other method authorized by subsection (2) of this section, the department, acting for and on behalf of the Commonwealth, may convey the fee simple or any lesser interest in, including air rights above, any land owned by the Commonwealth in the vicinity of the capital plaza to any person, corporation, or partnership, to which such land or any interest therein has been or will be leased, subject to a written agreement by such person, corporation, or partnership to construct such buildings and improvements thereon and to reconvey such land to the Commonwealth subject to a mortgage placed on the land or interest therein by the person, corporation or partnership, for the purpose of securing private financing of all or a part of the costs of construction of such buildings and improvements, and for the leaseback to such person, corporation or partnership of such land, buildings and improvements. Any mortgage placed on the land under this subsection shall not constitute a general obligation or debt of the Commonwealth but the Commonwealth may, in the event of default, redeem the mortgage if it so elects.

(4) The department may divide any building or improvement project authorized under this section into two or more parts or units for purposes of financing the costs of construction of each such part or unit and may agree that the Commonwealth's interest in any part or unit of such project conveyed to any person, corporation or partnership, and reconveyed to the Commonwealth subject to a mortgage as authorized by subsection (3) of this section may be subordinate and inferior to such mortgage, provided, however, that such mortgage shall not constitute a general obligation or debt of the Commonwealth, and the Commonwealth may, in the event of default, redeem the mortgage if it so elects.

(5) Any agreements made under this section shall be made only with the written consent of the state property and buildings commission and shall be signed in the name of the Commonwealth by the secretary of the executive department for finance and administration and the governor and shall be lodged for record in the office of the secretary of state.

HR 14, A RESOLUTION endorsing the Governor's efforts to obtain a pilot gasohol project for Kentucky.

WHEREAS, the nation has become increasingly dependent on imported oil, and now imports about one-half of the oil it consumes; and

WHEREAS, gasohol, a mixture of alcohol from domestic grain and gasoline, can be used as a substitute for pure gasoline and thereby can lessen our need for imported oil; and

WHEREAS, Kentucky grain production has doubled since 1969, and grain has become a mainstay in the agricultural economy of the state; and

WHEREAS, the United States Secretary of Agriculture has requested four pilot projects to produce and test gasohol;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives support Governor Carroll's efforts to obtain a pilot gasohol project for Kentucky.

Section 2. That a copy of this resolution be sent to the Governor of the Commonwealth, the President of the United States, the U. S. Secretary of Agriculture, and members of Kentucky Congressional delegation.

The Committee on Judiciary-Statutes reported **HB 408,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 408, AN ACT relating to property stolen or damaged.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.200 is amended to read as follows:

Any person convicted of a *misdemeanor or* felony for taking, injuring or destroying property shall restore the property *stolen and pay to the owner thereof the fair market value of the property. If such person cannot restore the property, he shall pay to the owner thereof twice the value of the property taken* [or make reparation in damages]. The court in which the conviction is had, if applied to by verified petition made within ninety (90) days of the date the sentence was pronounced, may order restitution *plus payment of the fair market value of the property stolen or twice the fair market value of the property stolen, if restitution cannot be made* [or give judgment against the convict for reparation in damages]; and enforce collection by execution or other process. In motions for restitution *plus payment of the fair market value or twice the fair market value of the property stolen* [or reparation], the court shall cause the prisoner to be brought into court, and demand of him if he has any defense to make to the motion. If he consents to the restitution *and* [or] to [reparation in damages in] an agreed sum, the court shall give judgment accordingly. Otherwise a jury shall be impaneled to try the facts and ascertain the amount and the value of the property [, or assess the damage, as the case may be]. A failure to pursue this remedy shall not deprive the person aggrieved of his civil action for the injury sustained. The person injured shall have a lien on the estate of the criminal from the time of his arrest. *In the event the criminal is unemployed, and has been convicted of a misdemeanor rather than a felony, the judge shall make every effort to secure employment until the criminal has paid his debt in full. The criminal shall be in the custody of the court until the debt is retired and shall be ordered to report to jail after working hours if he fails to report to work regularly on his own.*

The Committee Substitute to **HB 408** is as follows:

HB 408, AN ACT relating to reparation for property stolen or damaged.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.200 is amended to read as follows:

Any person convicted of a *misdemeanor or* felony for taking, injuring or destroying property shall restore the property or make reparation in damages. The court in which the conviction is had, if applied to by verified petition made within ninety (90) days of the date the sentence was pronounced, may order restitution or give judgment against the convict for reparation in damages, and enforce collection by execution or other process.

In motions for restitution or reparation, the court shall cause the prisoner to be brought into court, and demand of him if he has any defense to make to the motion. If he consents to the restitution or to reparation in damages in an agreed sum, the court shall give judgment accordingly. Otherwise a jury shall be impaneled to try the facts and ascertain the amount and the value of the property, or assess the damage, as the case may be. A failure to pursue this remedy shall not deprive the person aggrieved of his civil action for the injury sustained. The person injured shall have a lien on the estate of the criminal from the time of his arrest.

The Committee on Labor and Industry reported **HB 41** with Committee Amendments attached thereto, and **HJR 6**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 41, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1)(a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection (13) of this section.

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2)(a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur.

(b) The procedure with respect to filing of *occupational disease* claims shall be as follows:

1. The application shall set forth the work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the names and addresses of employer or employers with the approximate date of employment and shall also include with the application two written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations and shall contain full and complete statements of the results thereof. The reports shall be made by duly licensed physicians. The clinical examinations shall include x-ray examinations. However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.

2. The filing of a properly executed application for adjustment of claim, accompanied by the two medical reports described in subparagraph 1. of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer and the special fund.

3. Immediately upon receipt of said application for adjustment of claim, the board shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim.

4. Upon receipt of notice of claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. After said examination, the claimant or his representative, shall be furnished a copy of said medical report within a reasonable time.

5. Within sixty (60) days of the filing of the claim the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then the board shall within ten (10) days enter an order and award for the claimant. If the

claim is resisted, the board shall set a date for a hearing and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workmen's compensation board shall be followed.

(3) The right to compensation under this chapter for disability resulting from an occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workmen's compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred unless a claim is filed with the workmen's compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease *or diseases caused by exposure to carcinogenic substances,* a claim must be filed within 20 years from the last injurious exposure to the occupational hazard.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be the same as provided for accidental injury or death under the general provisions of the workmen's compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within 20 years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workmen's compensation act and in this section.

(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for 10 years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.

(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which (a) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconioses by the international labor organization, (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (c) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) if diagnosis had been made in the manner prescribed in paragraph (a) or (b), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.

(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis, complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death.

(8) If an autopsy has been performed, no testimony relative thereto shall be competent unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(9) No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(10) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(11) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the

provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the board when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(12) When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(13)(a) The employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for non-coal worker's silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and 75 percent shall be paid by the special fund and 25 percent by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for non-coal worker's silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid from the special fund and the special fund shall be reimbursed by the carrier or self-insured employer on a quarterly basis and under such regulations as the Board may provide for such purpose.

(b) In all claims for compensation partially payable by the special fund the commissioner of labor, as custodian of said fund, shall be designated as codefendant.

(c) In all agreements for the payment of compensation and awards the amount payable by the employer and the amount payable out of the special fund shall be separately stated. An award against the employer shall be for only the percentage of the total compensation which the employer is obligated to pay. A separate award shall be made against the special fund for the balance of the compensation payable. Nothing in this section shall prohibit the commissioner of labor, as custodian of the special fund, from entering into agreements to pay the compensation for which it is liable; provided, however, that where compensation is payable by both the employer and the special fund, the commissioner shall not enter into an agreement unless the employer is a party to the agreement.

The Committee Amendment No. 1 to **HB 41** is as follows:

Amend printed copy of **HB 41,** page 5, lines 12 and 13, by deleting the words "*or diseases caused by exposure to carcinogenic substances*";

and on page 5, line 15, after the word "hazard" by adding the words "*, or diseases caused by exposure to carcinogenic substances, in which event the claim must be filed within five years from the last injurious exposure or within two years from the date the claimant knew or in the exercise of reasonable diligence should have known that he had been exposed to carcinogenic substances, whichever occurs later.*"

The Committee Amendment No. 2 to **HB 41** is as follows:

Amend printed copy of **HB 41,** page 1 of Committee Amendment No.1 to **HB 41** adopted 2/8/78, line 4, by changing the word "*diseases*" to "*cancer*".

The Committee Amendment No. 3 to **HB 41** is as follows:

Amend printed copy of **HB 41,** page 1 of Committee Amendment No.1, which begins on page 5, line 15 of **HB 41,** by inserting after the word "*later*", the following: "*Carcinogenic substances shall be defined by the Kentucky Occupational Safety and Health Standards Board as authorized by KRS 338.051 and KRS 338.060.*"

HJR 6, A JOINT RESOLUTION authorizing and directing the creation of a Task Commission on Workmen's Compensation and making an appropriation therefor.

WHEREAS, Workmen's Compensation has been and continues to be of major concern to employers and employes alike; and

WHEREAS, Workmen's Compensation premiums continue to rise and be a problem for economic development and stability within the Commonwealth; and

WHEREAS, Workmen's Compensation benefits do not adequately meet the needs of the totally and seriously injured employes; and

WHEREAS, there has been a general and repeated request throughout the Commonwealth for a complete overhaul of Kentucky's Workmen's Compensation system;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a Workmen's Compensation Task Commission of five (5) members, appointed by the Governor, with a staff, appropriate for the task, at the discretion of the Commission, totally review the Workmen's Compensation statutes.

Section 2. That the Commission draft a legislative proposal that in effect would completely overhaul the Workmen's Compensation statutes by, among other things:

(1) Reducing premiums by adjusting compensation benefits for minor permanent partial injuries, while increasing benefits for survivors and the severely injured;

(2) Inserting an automatic cost-of-living escalator for benefits awarded;

(3) Reducing administration and litigation steps by removing the hearing examiner step and the circuit court level of appeal, with appeals of Board decisions going directly to the Court of Appeals or the Kentucky Supreme Court;

(4) Creating a Kentucky Workmen's Compensation state fund roughly patterned after Colorado and West Virginia's, and encouraging the use of alternatives of groups and individual self-insurance, by adjusting the formula by which self-insurers contribute to the special fund and by other feasible means, and increasing the power and responsibility of the Kentucky Insurance Regulatory Board to review and also set Workmen's Compensation insurance rates of insurance carriers doing business in the Commonwealth.

Section 3. That such Commission be appointed by the Governor by July 1, 1978 and that the Commission's legislative draft be completed by December 31, 1979 and reported to the 1980 General Assembly.

Section 4. Commission members shall serve at that salary determined by the Governor and the Governor shall appoint new members to any vacancies that may arise. The Commission shall terminate December 31, 1979.

Section 5. There is hereby appropriated out of the General Fund of the State Treasury the sum of $125,000 (one hundred and twenty-five thousand dollars) to carry out the purposes of this Act.

The Committee Substitute to **HJR 6** is as follows:

HJR 6, A JOINT RESOLUTION authorizing and directing the creation of a Task Commission on Workmen's Compensation and making an appropriation therefor.

WHEREAS, Workmen's Compensation has been and continues to be of major concern to employers and employes alike; and

WHEREAS, Workmen's Compensation premiums continue to rise and be a problem for economic development and stability within the Commonwealth; and

WHEREAS, Workmen's Compensation benefits do not adequately meet the needs of the totally and seriously injured employes; and

WHEREAS, there has been a general and repeated request throughout the Commonwealth for a complete overhaul of Kentucky's Workmen's Compensation system;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a Workmen's Compensation Committee be appointed with a staff, appropriate for the task, by the Interim Joint Committee on Labor and Industry, to totally review the Workmen's Compensation statutes.

Section 2. That the Committee consider drafting a legislative proposal that in effect would completely overhaul the Workmen's Compensation statutes by, among other things:

(1) Reducing premiums by adjusting compensation benefits for minor permanent partial injuries, while increasing benefits for survivors and the severely injured;

(2) Inserting an automatic cost-of-living escalator for benefits awarded;

(3) Reducing administration and litigation steps by removing the hearing examiner step and the circuit court level of appeal, with appeals of Board decisions going directly to the Court of Appeals or the Kentucky Supreme Court;

(4) Drafting a proposal for a Kentucky Workmen's Compensation state fund roughly patterned after Colorado and West Virginia's, and encouraging the use of alternatives of groups and individual self-insurance, by adjusting the formula by which self-insurers contribute to the special fund and by other feasible means, and increasing the power and responsibility of the Kentucky Insurance Regulatory Board to review and also set Workmen's Compensation insurance rates of insurance carriers doing business in the Commonwealth.

Section 3. That such Committee be appointed by July 1, 1978 and that its findings and recommendations be reported to the Interim Joint Committee on Labor and Industry by December, 1979, and to the 1980 General Assembly.

The Committee on Rules reported **SB 117, HB 29, HB 51, HB 299, HB 298, HB 179, HB 186, HB 242, HB 345, HB 352,** and **HB 363** have been posted for passage in Orders of the Day, February 16, 1978.

Report on Enrolled Bills

HB 72 and **HB 142** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Calendar

HB 36, HB 332, HB 375, SB 91, SB 93, SB 107, HB 33, HB 247, HB 393, HB 244, HB 377, HB 383, HB 239, HB 250, HB 404 and **SB 132** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Schmidt moved the adoption of the following Legislative Citation No. 27:

The House of Representatives hereby commends Dr. Fred Williams, Superintendent of Fort Thomas Schools in Campbell County, the recipient of the 1978 F. L. Dufree Award for Creative Educational Administration. This award is the highest recognition accorded a superintendent. Criteria for this coveted award encompasses aggressive leadership, outstanding administrative practices and the iniation and implementation of innovative programs. Dr. Williams has served with great distinction on the local, state, and national levels. His philanthropic spirit is well identified in his civic endeavors. We applaud Dr. Fred Williams, a distinguished educator. (Sponsored by Representatives Schmidt and Donnermeyer)

Agreed.

Representative Lindsay moved the adoption of the following Legislative Citation No. 30:

The House of Representatives hereby commends the Louisville and Nashville Railroad, Johnny Davis, Engineer, and Dr. Donald Cantley, Pediatrician, for their great compassion and extraordinary service inhelping to save the life of 15 year old Keith Proctor, suffering with a congenital heart disease since birth. The snow crisis complicated the father's frantic search for transportation from Utica, Kentucky to the Vanderbilt University Medical Center, Nashville, Tennessee, a 150 mile trip. Emergency helicopters and other means of transportation were grounded and not available. The heroic acts of the L and N Railroad, Johnny Davis, and Dr. Donald Cantley resulted in an L and N locomotive and caboose taking Keith Proctor to Nashville to the hospital. We applaud them for their indomitable courage and christian spirit. (Sponsored by Representative Lindsay)

Representative Crupper moved that he be recorded as voting "nay" on **SB 76.** Agreed.

Representative Nett moved that the rules be suspended for the purpose of considering **HR 55.** Agreed.

Representative moved the adoption of the following **HR 55:**

HR 55, A RESOLUTION honoring Diane Bain and Larry Thomas.

WHEREAS, Diane Bain and Larry Thomas, two outstanding examples of the young people of Kentucky, recently won an essay contest conducted in the Thirty-Fifth Legislative District; and

WHEREAS, in covering the topic of the essays, termed "My Favorite Kentuckian," Diane Bain selected her mother and Larry Thomas selected Henry Clay, two examples most worthy of emulation; and

WHEREAS, in seeking to emulate their examples these young people have succeeded remarkably well, and appear to be on their way toward positions of future leadership in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Diane Bain and Larry Thomas be afforded the privilege of the floor in the House of Representatives on Wednesday, February 15, 1978, and that when the House of Representatives does adjourn on such date it does so in honor of Diane Bain and Larry Thomas.

HR 55 was adopted by voice vote.

Representative Nett introduced special guests Diane Bain and Larry Thomas.

Representative Clarke moved that **HB 466** be taken from the Committee on Appropriations and Revenue and reassigned to the Committee on Public Utilities and Transportation. Agreed.

Orders of the Day

HB 180, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the Committee Substitute to **HB 180.** Agreed.

Representative Imes moved that **HB 180,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 60-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Hancock, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, LeMaster, List, Mann, Maynard, McBee, McKinney, McNutt, O'Brien, Pearman, Petty, Plummer, Priddy, Richards, Robinson, Romines, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright. Nays 21-Adams, W. Allen, Crupper, Davenport, DeFalaise, DeMarcus, Deskins, Fitzgerald, Guy, Holloway, Johnson, Layman, Little, Marcum, Noe, Rattliff, B. Richardson, P. Richardson, Riner, Schmidt, R. Smith.

HB 180, by way of Committee Substitute, was passed and the title agreed to.

Representative Imes moved that the vote by which **HB 180,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 215 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 215** be passed.

On the roll call the vote was yeas 68-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Bruce, Burch, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Marcum, May, Maynard, McBee, McNutt, Noe, O'Brien, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-W. Allen, Burnette, DeMarcus, Guenthner, Holbrook, Holloway, Imes, Plummer.

HB 215 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 215** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 318, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Amendment No. 1 to **HB 318.** Agreed.

Representative Mann moved the adoption of the Committee Amendment No. 2 to **HB 318.** Agreed.

Representative Wright moved the adoption of the following Floor Amendment No. 1 to **HB 318:**

Amend printed copy of **HB 318,** page 28, line 16, by placing a bracket before "and"

and on line 17 by placing a bracket after "limited,"

Agreed.

Representative Lindsay moved that the rules be suspended for the purpose of considering Floor Amendment No. 3 to **HB 318** and waive the requirement of the filing of this amendment 24 hours in advance of the consideration of the bill.

On the roll call the vote was yeas 26-W. Allen, Arnold, Boatwright, Boswell, Brinkley, Carpenter, Clapp, Clarke, Crupper, Dawahare, Deskins, Fitzgerald, Guenthner, Imes, Johnson, Jones, Lindsay, Mann, Maynard, McKinney, McNutt, Richards, Schmidt, Trevey, Wilborn, Williams. Nays 43-Adams, J. Allen, Bennett, Brown, Burch, Craddock, Cyrus, DeFalaise, Deitz, Dunn, Foster, Gay, Guy, Haering, Holbrook, Holloway, Isler, Kenton, Kleier, Layman, LeMaster, Marcum, May, McBee, Noe, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, Riner, F. Smith, R. Smith, Stewart, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Wright, Yates.

The motion to suspend the rules was rejected.

Representative Mann moved that **HB 318,** as amended, be passed.

On the roll call the vote was yeas 96-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Lindsay.

HB 318, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 318,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 7, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McNutt moved the adoption of the Committee Amendment No. 1 to **HCR 7.** Agreed.

Representative McNutt moved that **HCR 7,** as amended, be adopted.

On the roll call the vote was yeas 77-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Thomas, Tobin, Trevey, Van Horn, Wells, White, Worthington, Wright, Yates. Nays 15-Bendl, Benson, Beshear, Cyrus, Fitzgerald, Gray, Hines, Imes, Kleier, Noe, B. Richardson, Stone, Weinberg, Wilborn, Williams.

HCR 7 was adopted.

Representative McNutt moved the adoption of the Committee Amendment No. 2 (Title) to **HCR 7.**

The title was agreed to by voice vote.

Representative McNutt moved that the vote by which **HCR 7** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Imes requested that the following statement in regard to **HCR 7** be spread upon the Journal:

Mr. Speaker, Members of the House:

As I rise in explanation of my vote on House Concurrent Resolution 7, I do so after a great deal of thought, anxiety and soul-searching.

Mr. Speaker, in explaining my "no" vote, I want it made perfectly clear that I am not pro-abortion in any way, shape, form or fashion. However, I concur with the gentleman from Marshall's remarks, in that I feel that abortion in cases of rape, incest, to preserve the mother's life, or where there exists the strong probability of a malformed child, either physically or mentally, constitutes grounds for a justifiable abortion.

Of equal importance, I cannot and will not, in all good conscience and faith, ask the Congress of these United States to call for a constitutional convention.

I request that these remarks be spread upon the Journal of the House.

s/Kenneth C. Imes, State Representative

Representative Wells moved that consideration of **HB 98** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 102, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Wells moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved the adoption of the Committee Substitute to **HB 102.** Agreed.

Representative Clapp moved that **HB 102,** by way of Committee Substitute, be passed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 102:**

Amend printed copy of Committee Substitute to **HB 102,** pages 8 and 9, by deleting Section 7 thereof and re-numbering Section 8.

On the roll call the vote was yeas 14-Beshear, Bruce, Crupper, Fitzgerald, Hancock, Head, Kenton, Lindsay, List, Little, Morris, Tobin, Trevey, Williams. Nays 65-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Blandford, Boswell, Brinkley, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, Deskins, Dietz, Dunn, Foster, Gray, Guy, Haering, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Van Horn, Weinberg, White, Wilborn, Worthington, Wright, Yates.

The Floor Amendment No. 1 to the Committee Substitute to **HB 102** was rejected.

Representative B. Adams moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute to **HB 102:**

Amend printed copy of Committee Substitute for **HB 102,** page 1, line 10, after the word "of" insert the following: ", and located on the same premises with"

And on page 2, line 14, after the word "be" insert the following: "located on the same premises with,"

On the roll call the vote was yeas 75-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Burch, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stone, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright. Nays 2-Burnette, Yates.

The Floor Amendment No. 2 to the Committee Substitute to **HB 102** was adopted.

Representative Clapp moved that **HB 102,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 93-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 102, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Clapp moved that the vote by which **HB 102,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 145** had been examined and found correctly enrolled. **HB 145** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 145 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 135, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Wells moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the adoption of the Committee Substitute to **HB 135.** Agreed.

Representative Weinberg moved that **HB 135,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 94-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright. Nays 0.

HB 135, by way of Committee Substitute, was passed and the title agreed to.

Representative Weinberg moved that the vote by which **HB 135,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

HB 199 taken from Orders of the Day and ordered read at length for the third time. Repesentative Wells moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved that **HB 199** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Tobin, Trevey, Van Horn, Wells, Wilborn, Williams, Wright, Yates. Nays 0.

HB 199 was passed and the title agreed to.

Representative Imes moved that the vote by which **HB 199** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Wells moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative Wells moved that the rules be suspended for Introduciton of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 552, by Representative Robinson: AN ACT relating to district judges.

HB 553, by Representative Bendl: AN ACT relating to public records and reports of the Kentucky department for human resources.

HB 554, by Representative LeMaster: AN ACT relating to income taxation.

HB 555, by Representative Trevey: AN ACT relating to the practice of medicine and osteopathy.

HB 556, by Representative Williams: AN ACT relating to funeral directors.

HB 557, by Representatives Benson and Clarke: AN ACT relating to capital offenses.

HB 558, by Representatives Van Horn and Brown: AN ACT relating to officers and employes of the bureau of state police.

HB 559, by Representative Kleier: AN ACT relating to insurance.

HB 560, by Representative Burnette: AN ACT relating to sales and use taxes.

HB 561, by Representative Little: AN ACT relating to controlled substances.

HJR 57, by Representtives Pearman, Blandford, Boswell, Bruce, Burnette, Gray and Morris: A JOINT RESOLUTION relating to a winter relief program for livestock and appropriating $2,000,000 for this purpose.

HJR 58, by Representative Imes: A JOINT RESOLUTION establishing a special subcommittee of the Legislative Research Commission to review the Kentucky Revised Statutes and recommend changes to simplify the language and making an appropriation for that purpose.

HR 59, by Representative Deskins: A RESOLUTION amending Rule 69 of the Rules of the House of Representatives.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 98** by Representative Beshear.

Floor Amendment No. 2 to **HB 179** by Representative Van Horn.

Floor Amendment No. 1 to **HB 208** by Representative Donnermeyer.

Floor Amendment No. 3 to **HB 318** by Representative Lindsay.

Floor Amendment No. 1 to **HB 406** by Representative B. Richardson.

Floor Amendment No. 1 to **SB 127** by Representative Pearman.

Floor Amendment No. 1 to **SB 104** by Representative Clapp.

Floor Amendment No. 2 to **SB 104** by Representative Noe.

Adjournment

Representative Wells moved that the House adjourn until 2:00 p.m., Thursday, February 16, 1978.

On the roll call the vote was yeas 39-Bennett, Beshear, Boswell, Brown, Bruce, Clapp, Craddock, Cyrus, Davenport, DeFalaise, Donnermeyer, Dunn, Foster, Haering, Hines, Holbrook, Isler, Jones, Kidd, LeMaster, Mann, Marcum, McBee, Noe, Pearman, Petty, Plummer, Rattliff, Riner, Robinson, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Turner, Van Horn, White. Nays 7-Gray, Guenthner, Holloway, Imes, Maynard, P. Richardson, Williams.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 16, 1978

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend J. Williamson Brown, Jr., Church of the Ascension, Frankfort.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 15, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 562, by Representative Wells: AN ACT relating to health facilities and health services.

HB 563, by Representatives Kenton and Van Horn: AN ACT relating to members of the police and fire departments in cities of the second and third classes and urban-county governments.

HB 564, by Representatives List and Trevey: AN ACT relating to boards of education.

HB 565, by Representatives Hines, Bendl, Bennett, Benson, Dunn, Kidd, Kleier, Nett, Riner, Romines, Siemens, Williams and Yates: AN ACT relating to the University of Louisville.

HB 566, by Representatives Hines, Bendl, Benson, Kidd, Kleier, Nett, Siemens, Williams and Yates: AN ACT relating to the rural Kentucky scholarship fund.

HB 567, by Representative B. Richardson: AN ACT relating to the power equalization program fund.

HB 568, by Representative Wilborn: AN ACT relating to the council of higher education.

HB 569, by Representative Schmidt: AN ACT relating to holidays.

HJR 60, by Representatives Morris and Bruce: A JOINT RESOLUTION to establish a special Council to survey and define the need for minimum standards and training programs for firefighters, including those who serve on a volunteer basis, in the Commonwealth of Kentucky and making an appropriation therefor.

HJR 61, by Representatives Weinberg and Little: A JOINT RESOLUTION directing the Legislative Research Commission to establish a special subcommittee to study the low incidence of admission of rural Kentuckians to professional schools.

Senate Message

Announcing passage of **SB 105, SB 156, SB 225, SR 5, HB 4,** and **HB 64** with amendment.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 540, SB 158.**

Appropriations and Revenue: **HB 546, HB 554, HB 560, HR 57.**

Banking and Insurance: **HB 559.**

Business Organizations and Professions: **HB 548.**

Cities: **HB 539.**

Education: **HB 536, HB 537, SB 60, SB 181, SB 198.**

Elections and Constitutional Amendments: **HB 549, HB 550.**

Health and Welfare: **HB 553, HB 555, HB 556.**

Judiciary-Courts: **HB 544, HB 552.**

Judiciary-Statutes: **HB 557, HB 561, HR 58, SB 110.**

Labor and Industry: **HB 551.**

Public Utilities and Transportation: **HB 538, HB 543, HB 547.**

State Government: **HB 541, HB 542, HB 545, HB 558, HR 56, HR 59, SB 112.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 491.**

Health and Welfare: **HB 195, SB 166.**

Judiciary-Statutes: **HB 380, HB 346, HB 494.**

Labor and Industry: **HB 438.**

Counties and Special Districts: **HB 47, HB 152.**

Cities: **HB 523, HB 461.**

Business Organizations and Professions: **HB 432.**

State Government: **HR 53, HR 54, HB 462.**

Labor and Industry: **HB 293, HB 273.**

The Clerk announced the following Bills and Resolutions have been withdrawn from posting for Committee consideration:

Public Utilities and Transportation: **HB 181.**

Judiciary-Statutes: **HB 146.**

Labor and Industry: **HB 38, HB 40.**

Report of Committees

The Committee on Rules reported **HB 86, HB 111, HB 157, HB 234, HB 257, HB 367, HB 406, SB 104, SB 58, SB 68, SB 77, HJR 20, HR 21, SB 8, SB 9, SB 11, SB 12, SB 14, SB 15, SB 18, SB 19, SB 20, SB 21, SB 25, SB 26, SB 27, SB 31, SB 33, SB 38, SB 41, SB 42, HB 244, HB 332, HB 375, HB 377,** and **HB 383** have been posted for passage in Orders of the Day, February 17, 1978.

The Committee on Agriculture and Natural Resources reported **HB 359** with Committee Substitute and Committee Amendment No. 1 to the Committee Substitute attached thereto, **HB 382, SB 1,** and **SB 102** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 359, AN ACT relating to pollution discharge.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.060 is amended to read as follows:

No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any *pollutant, or any* substance that shall cause or contribute to the pollution of the waters of the commonwealth in contravention of the standards adopted by the department or in contravention of any of the rules, regulations, *permits,* or orders of the department or in contravention of any of the provisions of this chapter.

Section 2. KRS 224.034 is amended to read as follows:

(1) The department may issue federal permits pursuant to 33 U.S.C. 1342(b) of the federal water pollution control act (33 U.S.C. 1251 et. seq.) subject to the conditions imposed in 33 U.S.C. 1342(b) [(6)] and 1342(d). *Any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. 1311(c), 1312 and 1326(a).*

(2) The department may certify pursuant to 33 U.S.C. 1341 that applicants for a federal permit for the construction or operation of facilities which may result in a discharge into the waters of the Commonwealth will comply with the applicable provisions of the federal water pollution control act (33 U.S.C. 1251 et. seq.).

(3) The department shall not undertake either of the actions authorized in subsections (1) or (2) of this section unless the governor of the commonwealth has determined that such activity will be in the best interests of the environment and the people of the commonwealth.

Section 3. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, *Section 5 of this Act,* 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, *permit, rule, regulation* or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of *ten thousand dollars ($10,000)* [five thousand dollars ($5,000)] for each day during which such violation continues, and in addition, may be *concurrently* enjoined from continuing such violations as hereinafter provided in this section.

(2) Any person who willfully *or with criminal negligence* violates KRS 224.060, *Section 5 of this Act,* 224.330 or any determination, *permit, rule, regulation* or order of the department promulgated pursuant to those sections which has become final *or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method* shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than *fifteen thousand dollars ($15,000)* [ten thousand dollars ($10,000)] or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(3) Any person who violates any other provisions of this chapter other than KRS 224.060, *Section 5 of this Act,* and KRS 224.330 except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be *concurrently* enjoined from continuing such violations as hereinafter provided in this section.

(4) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

Section 4. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending

and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interfere with the comfortable enjoyment of life or property;

(4) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;

(5) "Commission" means the environmental quality commission;

(6) "Secretary" means the secretary of environmental protection;

(7) "Department" means the department for natural resources and environmental protection;

(8) "District" means an air pollution control district as provided for in KRS chapter 77;

(9) "Effluent limitations" means any restrictions or prohibitions established under state law which includes, but is not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(10) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;

(11) "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, any political subdivision thereof, municipality, or other public entity;

(12) "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;

(13) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;

(14) "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;

(15) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(16) "Solid waste" means all putrescible and nonputrescible refuse in solid form. Solid waste includes but is not limited to, garbage, rubbish, ashes, incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid commercial and industrial wastes, and special wastes including explosives, pathological wastes and radioactive materials;

(17) "Solid waste disposal site or facility" means any place at which solid waste is disposed of by incineration, landfilling or any other method;

(18) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit;

(19) "Water" or "waters of the commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the commonwealth or within its jurisdiction;

(20) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes.

(21) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water.

(22) "NPDES" means National Pollution Discharge Elimination System.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department is authorized to apply and to enforce against users of public owned treatment works effluent standards and pretreatment standards for the introduction into such treatment works of pollutants which interfere with, pass through, or otherwise are incompatible with such treatment works. The department may promulgate such rules and regulations as are necessary to implement this section.

The Committee Substitute to **HB 359** is as follows:

HB 359, AN ACT relating to pollution discharge.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.060 is amended to read as follows:

No person shall, directly or indirectly, throw, drain, run or otherwise discharge into any of the waters of the commonwealth, or cause, permit or suffer to be thrown, drained, run or otherwise discharged into such waters any *pollutant, or any* substance that shall cause or contribute to the pollution of the waters of the commonwealth in contravention of the standards adopted by the department or in contravention of any of the rules, regulations, *permits,* or orders of the department or in contravention of any of the provisions of this chapter.

Section 2. KRS 224.034 is amended to read as follows:

(1) The department may issue federal permits pursuant to 33 U.S.C. 1342(b) of the federal water pollution control act (33 U.S.C. 1251 et. seq.) subject to the conditions imposed in 33 U.S.C. 1342(b) [(6)] and 1342(d). *Any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. 1311, 1312 and 1326(a).*

(2) The department may certify pursuant to 33 U.S.C. 1341 that applicants for a federal permit for the construction or operation of facilities which may result in a discharge into the waters of the Commonwealth will comply with the applicable provisions of the federal water pollution control act (33 U.S.C. 1251 et. seq.).

(3) The department shall not undertake either of the actions authorized in subsections (1) or (2) of this section unless the governor of the commonwealth has determined that such activity will be in the best interests of the environment and the people of the commonwealth.

Section 3. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, *Section 5 of this Act,* 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, *permit, rule, regulation* or order of the department promulgated pursuant thereto shall be liable to a civil penalty not to exceed the sum of *ten thousand dollars ($10,000)* [five thousand dollars ($5,000)] for each day during which such violation continues, and in addition, may be *concurrently* enjoined from *any* [continuing] such violations as hereinafter provided in this section.

(2) Any person who willfully *or with criminal negligence* violates KRS 224.060, *Section 5 of this Act,* 224.330 or any determination, *permit, rule, regulation* or order of the department promulgated pursuant to those sections which has become final *or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method* shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than *fifteen thousand dollars ($15,000)* [ten thousand dollars ($10,000)] or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(3) Any person who violates any other provisions of this chapter other than KRS 224.060, *Section 5 of this Act,* and KRS 224.330 except as provided in KRS 224.992, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be *concurrently* enjoined from *any* [continuing] such violations as hereinafter provided in this section.

(4) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the department or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the department promulgated pursuant thereto.

Section 4. KRS 224.005 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and

other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interfere with the comfortable enjoyment of life or property;

(4) "Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil;

(5) "Commission" means the environmental quality commission;

(6) "Secretary" means the secretary of environmental protection;

(7) "Department" means the department for natural resources and environmental protection;

(8) "District" means an air pollution control district as provided for in KRS chapter 77;

(9) "Effluent limitations" means any restrictions or prohibitions established under state law which includes, but is not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(10) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever;

(11) "Publicly owned treatment works" means any facility for the treatment of pollutants owned by the state, any political subdivision thereof, municipality, or other public entity;

(12) "Schedule of compliance" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard;

(13) "Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank;

(14) "Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes;

(15) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes or other wastes;

(16) "Solid waste" means all putrescible and nonputrescible refuse in solid form. Solid waste includes but is not limited to garbage, rubbish, ashes, incinerator residue, street refuse, dead animals, demolition wastes, construction wastes, solid commercial and industrial wastes, and special wastes including explosives, pathological wastes and radioactive materials;

(17) "Solid waste disposal site or facility" means any place at which solid waste is disposed of by incineration, landfilling or any other method;

(18) "Tank" means any container when placed on a vehicle to carry in transport wastes removed from a septic tank, cesspool or seepage pit;

(19) "Water" or "waters of the commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the commonwealth or within its jurisdiction;

(20) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural or other legitimate purposes.

(21) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing or recovery of any natural resource which may be discharged into water.

(22) "NPDES" means National Pollutant Discharge Elimination System.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department is authorized to apply and to enforce against users of publicly owned treatment works the requirements of monitoring, record keeping and reporting, effluent limitations and pretreatment standards for the introduction into such treatment works of pollutants which interfere with, pass through, or otherwise are incompatible with such treatment works. The department may promulgate such rules and regulations as are necessary to implement this section.

Section 6. KRS 224.035 is amended to read as follows:

Any record or other information furnished to or obtained by the department shall be open to reasonable public inspection except that any record or information, not relating to emission *or effluent* data, which constitutes a trade secret and is designated as such by the *department, upon a satisfactory showing by the* owner or operator in accordance with the rules and regulations of the department shall be confidential and for the use only of the department and other departments, agencies and officers of the commonwealth in the performance of their duties. Nothing herein shall be construed to prevent the use of such records or information by any department, agency, or officer of the commonwealth in compiling or publishing reports, analyses or summaries relating to the general condition of the natural environment, nor shall anything herein prevent the disclosure of any record or other information to any agency or representative of the United States or to any subdivision of the commonwealth for the purposes of administration or enforcement of any federal or local pollution control law. No such report, analysis or summary shall directly or indirectly, reveal information otherwise confidential under this section.

The Committee Amendment No. 1 to the Committee Substitute to **HB 359** is as follows:

Amend printed copy of Committee Substitute for **HB 359**, page 2, following line 11 by adding the following:

"*(4) The department shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement or other condition which is more stringent than the effluent limitation, monitoring requirement or other condition which would have been applicable under federal regulation if the permit were issued by the federal government.*"

HB 382, AN ACT relating to beavers.

WHEREAS, many streams in western Kentucky have been blocked by the dams built by an excessive number of beavers; and

WHEREAS, thousands of acres of prime hardwood timber and farmland have been and are being destroyed or rendered unproductive; and

WHEREAS, this timberland and farmland cannot be drained because of the beaver dams; and

WHEREAS, during the summer large bodies of still water created by the beaver dams are the habitat for mosquitoes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) Upon adoption of a resolution by the fiscal court that beaver exist within the county in such quantities that they present a threat to the preservation of farmland, trees, and other property, the fiscal court may request the department to pay a bounty on beaver. Upon receipt of the resolution, a bounty on beaver of ten dollars ($10.00) for each beaver shall be paid in the following manner. Upon the presentation of the tail of any beaver, any conservation officer of the department shall issue a receipt, in the form as prescribed by the commission, to the person presenting the tail. The department shall redeem the receipts by paying to such person the sum of ten dollars ($10.00) for each receipt as bounty. The redemption of receipts shall be paid only from funds especially appropriated for this purpose and it is expressly provided that no bounty shall be paid from any regular receipts, funds, or appropriations of the department. However, the department may charge a maximum of one dollar ($1.00) against the appropriation for bounties for each bounty paid as reimbursement for the expense of administering the bounty program.

(2) No bounty shall be paid when funds, personnel, or equipment of any governmental unit are used in capturing and killing beaver.

(3) Upon receipt of an adopted resolution from a fiscal court stating that beaver no longer present a threat to property within the county, the department shall cease paying the bounty.

Section 2. For the purposes of this Act, there is hereby appropriated from the General Fund to the account of the "Beaver Bounty" the sum of $25,000 for the fiscal year 1978-79 and the sum of $25,000 for the fiscal year 1979-80.

SB 1, AN ACT relating to the control of trees, plants, weeds and pests.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.060 is amended to read as follows:

(1) Every resident nursery or agency selling nursery stock in this state shall annually file credentials with the state entomologist. If these credentials are satisfactory to the state entomologist, the director and the commissioner, the state entomologist shall, upon payment of a fee of five dollars ($5.00) by the nursery or agency, issue it a license authorizing it to do business in the state.

(2) [Every nonresident nursery and every agent, dealer or seller of trees, representing nonresident nurseries or dealers, shall annually file credentials with the state entomologist. These credentials shall include the name of nurseries, nurserymen or other persons represented. If these credentials are satisfactory to the state entomologist, the director and the commissioner, the state entomologist shall issue the license.

(3)] Any person soliciting orders for or delivering trees or plants in this state shall carry with him a copy of his license [from this state,] which he shall show to prospective buyers, purchasers, county officials or agents of the state entomologist, on demand.

Section 2. KRS 249.070 is amended to read as follows:

(1) All nurseries where trees, vines, plants or other nursery stock are grown and offered for sale, shall be inspected by the state entomologist or by his assistant, once each year. He shall notify the owners of such nurseries, in writing, of the presence of any [San Jose scale or other] dangerous pests on the stock of these nurseries, and shall also notify, in writing, the owner of any affected nursery stock to take such measures, on or before a certain day, for the destruction of insect or fungus enemies of nursery stock as have been shown to be effectual.

(2) The owner of the affected nursery shall, within the time specified, take such steps for the destruction of injurious insect or fungus enemies present, as will exterminate them.

(3) No person shall ship or deliver any such nursery stock affected with insect or fungus enemies, before treatment.

Section 3. KRS 249.100 is amended to read as follows:

[Every nonresident nurseryman or other person intending to ship into this state] Trees, plants or parts of plants, whether nursery-grown or not, *that are sold, shipped or transported into this state* shall [file with the state entomologist a copy of a valid certificate from a state or United States government inspector showing that the trees, plants or their parts have been inspected and that he is authorized to sell and ship or transport them. All packages of trees, plants or parts of plants shall] bear a copy of a certificate of inspection from *a state or United States government* [an official] inspector. Transportation companies within the state shall notify the state entomologist at once when any such trees or plants are received by them without a valid certificate. Nursery stock or other trees, plants or parts of plants shipped into this state in violation of a state or United States quarantine may be seized and destroyed or returned to the shipper at the expense of the owner or possessor.

Section 4. KRS 249.110, 249.120, 249.130, 249.140, 249.150, 249.160, 249.170, 249.210, 249.220, and 249.230 are repealed.

SB 102, AN ACT relating to fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, [gigs,] rod in hand, jugging, setline or sport fishing trotline [, but does not include the use of grabbling hooks and line, gang hooks, snag lines, commercial trotline, or nets of any kind].

(2) "Buy" includes offering to buy, acquiring or possessing through purchase, barter, exchange or trade.

(3) "Commercial trotline" is a line to which is attached more than 50 single or multibarbed baited hooks, which shall not be placed closer than eighteen inches (18").

(4) "Commission" means the department of fish and wildlife resources commission.

(5) "Commissioner" means the commissioner of the department of fish and wildlife resources.

(6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.

(7) "Device" means any article, instrument or equipment of whatever nature or kind which may be used to take wild animals, wild birds or fishes.

(8) [(7)] "Department" means the department of fish and wildlife resources.

(9) [(8)] "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not.

(10) [(9)] *"Grabbing"* ["Grabbling"] means the taking of fish, *frogs, or turtles directly by hand or with the aid of a handled hook no more than eighteen (18) inches in length* [by snatching or snagging on one or more single or multibarbed hooks by use of either a hand line or pole and line].

(11) [(10)] "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object.

(12) "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator.

(13) [(11)] "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not.

(14) [(12)] "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal.

(15) [(13)] "Jugging" is a means of fishing by which a single baited line is attached to any floating object.

(16) [(14)] "Navigable waters" means any waters within this state under lock and dam.

(17) [(15)] "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for six (6) months immediately prior to his application for a license.

[(16) "Noodling" or "tickling" means the taking of fish from any stream or body of water by hand and without the use of any artificial device.]

(18) [(17)] "Minnows" means all fishes under six inches (6") in length, except basses (largemouth, smallmouth, or Kentucky), rock bass or goggle-eye, trout, crappie, walleye, sauger, pikes, members of the striped bass family, and muskellunge.

(19) [(18)] "Prescribed by the department" means established by a regulation or regulations.

(20) "Protected wildlife" is any wildlife species for which an open or closed season for taking has been designated.

(21) [(19)] "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream.

(22) [(20)] "Raw fur" means a hide, fur or pelt of a fur-bearing animal which has not been processed by an established commercial processor. Skinning, stretching, oiling or coloring of the pelt of the animal shall not be considered processing.

(23) [(21)] "Regulation" means a written regulation adopted by the commissioner with the approval of the commission.

(24) [(22)] "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for six (6) months immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state.

(25) [(23)] "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner or further interfere in any manner with any officer in the discharge of his duties.

(26) [(24)] "Rough fish" means all species of fishes other than those species designated by regulation as sport fishes.

(27) [(25)] "Sell" includes offering to sell, having or possessing for sale, barter, exchange or trade.

(28) [(26)] "Setline" means a line to which is attached one single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole or other stationary object; on the bank of a stream or impoundment.

(20) [(27)] *"Snagging" is the taking of fish or other aquatic animals through the use of a hand held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait* ["Snag line" is any stationary line which contains more than 50 single or multibarbed hooks which are baited or unbaited].

(30) [(28)] "Sports fishing trotline" is a line to which is attached no more than 50 single or multibarbed baited hooks which shall not be placed closer together than eighteen inches (18").

(31) [(29)] "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, *snare,* or capture, wildlife in any way and any lesser act designed to lure, attract or entice for such purposes; and to place, set, aim or use any device, animal, substance or agency which may reasonably be expected to accomplish such acts; or to attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts.

(32) [(30)] "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and resides in a dwelling on the farms or lands *including noncontiguous lands,* but shall not include any other employe or tenant unless actually residing on the property and engaged or employed as above mentioned.

(33) [(31)] "Transport" means to carry, move or ship wildlife from one (1) place to another.

(34) [(32)] "Wild bird" and "wild animal" includes all nondomesticated birds or animals or any part thereof.

(35) [(33)] "Wildlife" means any wild bird, wild mammal, fishes, amphibian, *reptile,* or other form of aquatic life, or a part thereof, protected or unprotected by this chapter.

Section 2. KRS 150.022 is amended to read as follows:

(1) The department of fish and wildlife resources commission shall consist of nine (9) members, one (1) from each wildlife district, as set out by the commissioner with the approval of the commission, and not more than five (5) of the same political party.

(2) The governor shall appoint the members of the commission. Each of such members shall be appointed for a term of four (4) years.

(3) Vacancies through the expiration of terms of the members of the commission shall be filled by appointment by the governor from a list of five (5) names from each wildlife district, recommended and submitted by the sportsmen of each respective district. When the term of a member expires, the commissioner shall call a meeting of the sportsmen in that district not later than thirty (30) days prior to the expiration of such member's term. Notice of the meeting shall be given by publication pursuant to KRS chapter 424. At such meeting, the sportsmen in attendance shall select and submit to the governor a list of five (5) residents and citizens of the district who are well informed on the subject of wildlife conservation and restoration. The governor shall appoint a successor to the member whose term is about to expire within sixty (60) days following the submission to him of the list hereinabove referred to, and in no event later than August 13.

(4) Upon appointment to the commission of the department of fish and wildlife resources, each commissioner shall execute a bond of one thousand dollars ($1,000) in favor of the department of fish and wildlife resources, the premium on said bond to be paid out of department funds.

(5) In the event of vacancies other than by expiration, the governor shall fill the vacancy for the unexpired part of the term from the names remaining on the list previously submitted for the district from which the vacancy arose.

(6) Each member of the commission shall take the constitutional oath of office.

(7) The governor may remove any member of the commission for inefficiency, neglect of duty, or misconduct in office; but shall first deliver to such member a copy of all charges in writing and afford to him an opportunity of being publicly heard in person or by counsel in defense of such charges, upon not less than ten (10) days' notice. If a member shall be removed, the governor shall file in the office of the secretary of state a complete statement of all charges made against such member and his findings thereon, together with a complete record of the proceedings.

(8) Each member of the commission shall be entitled to reimbursement for actual and necessary traveling and other expenses incurred by him in the discharge of his official duties [, such expenses not to exceed five hundred dollars ($500) per annum for each member,] and to be paid from the game and fish fund.

(9) A majority of the commission shall constitute a quorum for the transaction of any business, for the performance of any duty or for the exercise of any power vested in the commission.

(10) The department shall have its principal office in Franklin County, and is authorized to purchase all supplies, equipment and printed forms and to issue such notices and publications as the commissioner may deem necessary to carry out the provisions of this chapter.

(11) The word "sportsman" as used in this section shall mean a resident hunter or fisherman who has been licensed in Kentucky for each of the past two (2) consecutive years.

Section 3. KRS 150.140 is amended to read as follows:

Each *circuit* [justice or] clerk *responsible for the* [of the] court before whom any prosecution under this chapter for the violation of any law or regulation for the protection of wildlife, animals, birds or fish may be commenced or shall go on appeal shall, within *ten (10) days after the end of each month* [twenty (20) days after a decision has been rendered therein], report in writing to the commissioner the result of the prosecution, the amount of fine collected or penalty imposed, if any. All moneys collected as fines or penalties for the violation of any law or regulation which, according to law, goes to the game and fish fund, shall be paid *to the state treasurer within ten (10) days after the end of each month* [within thirty (30) days to the commissioner by the court, justice or other officer collecting or receiving the moneys,] and the same shall be paid by the *state treasurer* [commissioner to] *into the game and fish fund* [the state treasurer] within thirty (30) days thereafter.

Section 4. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under such licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, are as follows:

(1) Statewide resident sport fishing license which authorizes the holder thereof to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by *grabbing* [grabbling], gigging, *snagging, snaring,* jugging, *and* bow and arrow [and by noodling or tickling], and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations hereinafter set forth and such additional limitations as the department may from time to time prescribe; this license does not authorize the holder to sell fish;

(2) A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder thereof to perform all acts authorized by a statewide sport fishing license and subject to same limitations or prescribed regulations. This license does not authorize the holder to sell fish;

(3) A resident commercial fishing license and a nonresident commercial fishing license, which authorizes a holder thereof to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation. Such license shall also authorize the holder thereof to sell rough fishes, other than those protected by regulation;

(4) An Ohio River sport fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to take fish from the Ohio River only by any method authorized under a statewide sport fishing license. This license does not authorize the holder to sell fish;

(5) An Ohio River commercial fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to exercise in the Ohio River only the same privileges that may be exercised under a commercial fishing license, as defined in subsection (3), provided that the holder of such license has first obtained a tag or tags for each piece of commercial fishing gear in possession including each seine, net, trap, and line;

(6) *A commercial fishing gear tag must be attached to each piece of commercial fishing gear including hoop nets, slat traps, wing nets, and to each 100 feet of linear gear or portion thereof in use including commercial trotline, seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license or an Ohio River commercial fishing license;* [A tag for use on a gill net, trammel net or seine which may be issued only to a person holding a commercial fishing license or an Ohio River commercial fishing license, and which authorizes the holder thereof to use, in taking rough fishes from the waters of this state, or from the Ohio River only, as the case may be. A separate tag shall be required for each 100 feet of seine, gill net, trammel net or netting, or part thereof, and said tag shall be attached thereto;

(7) A hoop net tag, which may be issued only to a person holding a commercial fishing license or an Ohio River commercial fishing license, which authorizes the holder thereof to use, in taking rough fishes from the waters of this state, or from the Ohio River only, as the case may be one (1) hoop net. A separate tag shall be required for each hoop net of any type prescribed by regulation, and said tag shall be attached thereto;

(8) A snag line tag and a commercial trotline tag, which may be issued only to the proper holder of a commercial fishing license, or an Ohio River commercial fishing license, which authorizes the holder thereof to use, in taking rough fishes from the waters of this state, or from the Ohio River only, as the case may be, one (1) snag line or one (1) trotline. A separate tag shall be required for each snag line and each commercial trotline, and said tag shall be attached thereto;]

(7) [(9)] Live fish and bait dealer's license, resident and nonresident, which authorizes the holder thereof to sell bait and live fish as may be prescribed by regulation;

(8) [(10)] Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

(9) [(11)] A statewide resident hunting license, which authorizes the holder thereof to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

(10) [(12)] A junior statewide hunting license, which may be issued only to a resident of this state, before he has reached his or her sixteenth birthday, but which becomes void on his or her sixteenth birthday, and which authorizes the holder thereof to exercise all the privileges authorized by a statewide hunting license; Provided That no junior hunting license shall be issued without the written permission of parent, guardian or person having custody of such person under 16 years of age;

(11) [(13)] Trapping licenses, resident and nonresident, which authorize the holder thereof to take wild animals by trapping upon his own lands or upon the lands of another person, provided that the holder of such license shall have first obtained a written consent as provided in KRS 150.400 and 150.410;

(12) [(14)] A taxidermist license, which authorizes the holder thereof to engage in the business of preparing, stuffing and mounting the skins of wildlife;

(13) [(15)] A commercial guide's license, which authorizes the holder thereof to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

(14) [(16)] Fur buyer's licenses, resident and nonresident, which authorize the holder thereof to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for such license shall

state the number of premises to be used and shall display at each a copy of same as furnished by the department except that the commissioner may limit the number of copies furnished and may revoke license for violation;

(15) [(17)] A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder thereof to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

(16) [(18)] Nonresident sport fishing license which authorizes the holder thereof to perform any act authorized by a resident statewide sport fishing license. This license does not authorize the holder to sell fish;

(17) [(19)] Nonresident *annual* hunting license which authorizes the holder thereof to perform any act authorized by a resident statewide hunting license;

(18) [(20)] A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license is good only for the preserve for which it was issued and shall continue legal only for one (1) year. These licenses shall be issued in ink by the preserve manager, and it becomes his responsibility to see that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, shall have the authority to establish and regulate hunting preserves, either private or commercial;

(19) [(21)] A big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorizes the holder thereof to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing such hunting;

(20) [(22)] A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(21) [(23)] A trout stamp, which may be established by regulation in accordance with KRS 150.225;

(22) [(24)] A commercial waterfowl permit, which authorizes the holder thereof to establish and operate a commercial waterfowl hunting preserve.

Section 5. KRS 150.180 is amended to read as follows:

(1) Except as otherwise provided in this section or elsewhere in this chapter, and subject to regulations adopted under this chapter, no person, for himself or as the agent or employe of another shall buy, or sell, or attempt to buy, or sell, barter, exchange, or trade, or have in possession for the purpose of selling, bartering, or trading any protected wildlife or part thereof or raw fur, no matter where or when caught or killed, whether caught or killed in this state or in any other state or other country.

(2) Mussels and fishes, other than sport fishes as designated by departmental regulations, and all fishes, regardless of species, raised by licensed propagation permittees may be bought, sold and transported, if in legal possession.

(3) Raw furs, if in legal possession, may be sold, transported or shipped, by a licensed trapper or licensed hunter to a licensed fur buyer (resident or nonresident), and by a licensed fur buyer to a licensed fur processor or to another fur buyer if in legal possession. Raw furs may be held in possession by a trapper or *hunter* [a fur buyer] twenty (20) days *and a fur buyer for thirty (30) days* following the close of the season. A fur processor may hold raw furs or sell to another licensed fur processor at any time.

(4) Subject to regulations adopted under this chapter, a person who has been issued a license under this chapter and who has the license on his person may transport anywhere as a part of his personal baggage any protected wildlife legally taken by him under such license, not in excess of the number that the law or regulation permit him to have in possession at any one (1) time.

(5) A person who has legally taken any protected wildlife in another state and who has in his possession the license which authorizes such taking may, if the same be dead, transport the same in this state, as part of his personal baggage at any time during the open season for the particular species in the state in which taken or within ten (10) days after the close of such season. Any person may ship dead game or dead fish so taken subject to the provisions of the laws of the state in which the same was taken and the laws and regulations of the United States relating thereto.

(6) No person shall import or transport into the state of Kentucky or receive shipment in the state from without the state, any live wildlife without first procuring from the department a written permit to do so. If it is determined upon inspection that such wildlife would not constitute a menace to the state and is free from disease and other undesirable physical characteristics, the commissioner shall issue such a permit free of charge.

(7) No person may at any time stock any species of fish secured from any source into the public waters of the commonwealth without first securing a permit from the commissioner.

(8) This section shall not in any way interfere with the transportation of any wildlife by the authorized personnel of the department.

(9) Federal and state regulations shall govern the transportation of all migratory wild birds.

Section 6. KRS 150.190 is amended to read as follows:

(1) The commissioner may, with the approval of the commission, adopt the design of all licenses required by this chapter and make all regulations for their issuance. Licenses shall be issued on a form prescribed by the commissioner, subscribed and sworn to by the applicant and giving the following information: Sufficient general description of the applicant to identify him, his name, place of residence and house number. No person shall make a false statement or provide any false information when securing a license. No person shall alter *or falsify* a license or permit in any manner.

(2) Except as provided in subsections (3), (4), (5), (6) and (7), all licenses and tags provided for in this chapter shall be issued by the county clerk. The clerk shall sign the licenses and shall require the persons to whom the licenses are issued to sign their name on the license attesting to the validity of the information contained thereon. The clerk shall keep a correct and complete copy of all licenses issued in the book of license furnished by the department, and these records shall be open to inspection by the public during regular office hours. No county clerk, [or] deputy *clerk, or agent* shall knowingly make a false entry upon a license or upon a license record or report required by this chapter.

(3) Ohio River sport fishing licenses and Ohio River commercial fishing licenses and seine, hoop net, net, commercial trotline and snag line tags for holders of Ohio River commercial fishing licenses shall be issued by the department directly, or through such persons, resident and nonresident, as may be designated by the commissioner as agent for that purpose.

(4) Commercial guide's licenses, fur buyer's licenses, both resident and nonresident, and fur processor's licenses shall be issued directly by the department. Any applicant for a commercial guide's license shall be required to present proof to the satisfaction of the commissioner, in accordance with such regulations as the commissioner may prescribe with the approval of the commission, that he is qualified to act as a commercial guide. Any applicant for a fur processor's license shall be required to present proof to the satisfaction of the commissioner, in accordance with such regulations as the commissioner may prescribe with the approval of the commission, that he has sufficient equipment and facilities to engage in the business of processing, manufacture and storage of raw furs.

(5) A live fish and bait dealer's license, both resident and nonresident, shall be issued directly by the department, or through such persons, resident or nonresident, as may be designated by the commissioner as agent for that purpose.

(6) Musseling licenses, both resident and nonresident, shall be issued directly by the department.

(7) Commercial fishing licenses, both resident and nonresident, shall be issued directly by the department, or through such residents as may be designated by the commissioner as agents for that purpose.

Section 7. KRS 150.230 is amended to read as follows:

(1) The county clerk or any agent designated by the department under the provisions of subsection (3) of KRS 150.190 shall retain as his fee, out of the money received by him for licenses and tags, the following fees:

(a) For each license or tag for which the fee is $1.00, a fee of 15¢;

(b) For each license or tag for which the fee is not less than $2.00 nor more than $5.00, a fee of 25¢;

(c) For each license for which the fee is over $5.00, a fee of 50¢.

(2) The foregoing fees shall cover the swearing of the applicant to his application and of other services under this chapter. The county clerk shall pay the remainder of the license fees, after deducting therefrom his fee, to the state treasurer on *or before the tenth* [the first] day of each month, which amount shall be credited to the game and fish fund. The county clerk shall report to the commissioner on *or before the tenth* [the first] day of each month the number and kind of licenses and tags issued and the amount of money remitted to the state treasurer. *The county clerk shall report to the commissioner on or before January 25th each year the number and kind of licenses and tags issued the preceding year and the amount of money remitted to the state treasurer.*

Section 8. KRS 150.235 is amended to read as follows:

(1) No person shall perform any act authorized to be performed by any of the various licenses provided for in this chapter without first procuring the type of license which authorizes the performance of such act and unless at the time of the performance of such act he has the license provided therefor on his person, except that in the case of a fur processor it shall be sufficient if the license is posted in a conspicuous place upon the licensed premises.

(2) Wherever in this chapter reference is made to the "holder" of a license, it means the person in whose name the license was issued. No person to whom a license has been issued under this chapter may authorize or permit any other person to carry his license. *No person shall present the license of another person to a conservation officer for inspection while in the act of hunting or fishing.*

(3) No nonresident shall perform any act under this chapter without first procuring the proper nonresident license.

Section 9. KRS 150.275 is amended to read as follows:
The commissioner may issue to any qualified person a permit to take and transport wild animals, birds or fish at any time for scientific or educational purposes; such permits shall be valid at the discretion of the commissioner and shall show upon their face the period of their validity. [The fee for such permits shall be one dollar ($1.00).]

Section 10. KRS 150.280 is amended to read as follows:
No person shall propagate or hold protected wildlife without *obtaining* [first procuring] a permit to do so from the department *within ten (10) days after the wildlife is acquired.* The commissioner shall make and publish regulations governing all such activity. The application for such permit shall be in writing, addressed to the commissioner, signed by the applicant, and shall describe the land or waters owned or leased to be used and shall contain such other facts as may be required by the commissioner. The commissioner may issue a permit, which shall continue in force for one (1) year or any part thereof unless sooner revoked by the commissioner for cause, upon payment of a *permit* fee [not to exceed five dollars ($5.00)] and fees for tagging which shall be fixed by the commissioner. A fish and game club which enters into an agreement with the department to operate such a farm, in cooperation with the department, for the purpose of carrying out the department's program may, with the approval of the commissioner, be issued a permit without the payment of any fee. Any permit issued pursuant to this section may be revoked by the commissioner at any time for a violation by the holder thereof of any of the laws of Kentucky or of any regulation of the department.

Section 11. KRS 150.290 is amended to read as follows:
(1) Any breeder may sell and transport fish, frogs, fur-bearing animals and other game, alive for propagation, [and minnows for bait,] and for food purposes, *or minnows for bait,* during seasons prescribed by the commission. Such fish, frogs, fur-bearing animals and other game shall be identified either by marking their container or by individual tagging, as the commissioner may prescribe.
(2) No breeder shall sell game procured from other than a licensed propagation farm.

Section 12. KRS 150.320 is amended to read as follows:
(1) No person shall take any wild bird except game birds *or live raptors* for which there is an open season, either under the laws of Kentucky and the regulations of the department or the laws of the United States, except those birds mentioned in subsection (2) of this section.
(2) This chapter does not protect or in any way limit the taking of the crow, the starling, or the English sparrow, but any persons taking any of them must have a hunting license.
(3) No person shall take, disturb or destroy the nest or eggs of any wild birds *except for raptors as prescribed by regulation.*

Section 13. KRS 150.360 is amended to read as follows:
(1) No person shall take any wild animals, except fishes, whether protected by this chapter or not, except by trapping, *snaring,* gig, bow and arrow, gun, gun and dog, dog, falconry, or as expressly prescribed by regulation.
(2) No shotgun used in the taking of wild animals, protected or unprotected, shall be larger than 10-gauge and *the same shall be* fired from the shoulder. No wild animals, except deer, protected or unprotected, shall be taken with or by means of any automatic loading or hand-operated repeating shotgun capable of holding more than three (3) shells, the magazine of which has not been cut off or plugged with a one-piece filler incapable of removal through the loading end thereof, in such manner as to reduce the capacity of said gun to not more than three (3) shells at one (1) time in the magazine and chamber combined. Firearms shall not be used in the taking of fishes.
(3) No person shall hunt wildlife (except opossum, raccoon, fishes and frogs) with lights or other means designed to blind wildlife *or make wildlife visible* at night.

Section 14. KRS 150.370 is amended to read as follows:
(1) No person shall take any wildlife except during the open season for the particular species as prescribed by the department.
(2) Subsection (1) of this section shall not apply to persons who hunt red fox at night with dogs for sport and not to kill; and who during daylight [or night] hours exercise and train rabbit dogs, raccoon dogs, bird dogs and retrievers, but not to kill.
(3) The possession of any raw fur when the season is not open for the particular species shall be prima facie evidence that the animal was taken out of open season, but this presumption shall not apply to

possession of any fur by a trapper *or hunter* during the open season as prescribed by the department and twenty (20) days thereafter, or by a fur buyer during the open season and *thirty (30)* [twenty (20)] days thereafter.

Section 15. KRS 150.411 is amended to read as follows:

(1) Every licensed taxidermist shall keep a suitable record in which shall be entered the species of each animal mounted by him and the name and address of the person for whom the mounting was done. Within ten (10) days after the end of each month, he shall send to the department a report showing the number and name of the animals of each species mounted by him during the preceding month and the name and address of the person for whom each animal was mounted.

(2) Any legally taken wildlife may be mounted anytime, provided the wildlife bears a tag with the name and address of the owner and date and place taken.

(3) A fish and wildlife disposal permit, signed by a conservation officer, must be attached to wildlife taken other than during a legally open hunting season. Such permit will substitute for the tag required in subsection (2) [No animal or bird shall be mounted except during the open season for the particular species, unless a permit be issued therefor by the commissioner, which permit shall be issued without cost].

Section 16. KRS 150.440 is amended to read as follows:

(1) The open season for taking rough fish by gigging, *grabbing* [grabbling], *snaring and snagging* [tickling, noodling] shall be prescribed by the department, by regulation.

(2) Creel limits for rough fish taken by gigging, *grabbing* [grabbling], *snaring and snagging* [tickling, noodling] shall be set by the department, by regulation.

Section 17. KRS 150.640 is amended to read as follows:

(1) No person engaged in hunting, [or] fishing *or trapping* upon either public or private property shall commit any acts of depredation, such as setting of fires, destruction of fences, shooting of livestock or poultry, theft or causing damage to any property in any manner.

(2) No person shall permit domestic livestock to feed or roam free upon lands owned, licensed or leased by the department except as provided by regulations or authorized by the commissioner.

Section 18. KRS 150.990 is amended to read as follows:

(1) Each bird, fish or animal taken, possessed, bought, sold or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the commissioner thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission hereunder, for which no definite fine or imprisonment is fixed, shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(3) Any person who violates any of the provisions of subsection (3) of KRS 150.090, subsections (1) and (2) of KRS 150.180, KRS 150.300, KRS 150.330, subsection (2) of KRS 150.360, KRS 150.485 or KRS 150.600 shall be fined not less than twenty-five ($25.00) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both.

(4) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to such penalties shall be liable to the department in an amount reasonably necessary to restock such fish or replenish such other wildlife which has been killed or destroyed.

(5) Any licensee who violates any provisions of this chapter or any regulations adopted by the commissioner thereunder shall, in addition to the penalties provided in subsections (2), (3) and (4) of this section, forfeit his license and shall not be permitted to purchase another license for the same calendar year.

(6) Any county court clerk, [or] deputy *clerk or agent* who knowingly makes a false entry upon a license record or report, in violation of subsection (2) of KRS 150.190 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any person who violates any provisions of KRS 150.390 shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

(8) Any person who violates KRS 150.525 shall be fined not less than twenty-five dollars ($25.00), nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months, or both.

(9) Any person who violates any regulation which has been or may be hereafter adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out or limits.

(10) Any person violating the provisions of subsection (1) of KRS 150.670, shall be fined not less than fifteen dollars ($15.00) nor more than one hundred dollars ($100).

(11) Any nonresident who violates KRS 150.235, subsection *(2) or* (3), shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200).

(12) No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced or remitted otherwise than expressly provided by law.

(13) Any person who violates any provision of KRS 150.183 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation.

The Committee on Cities reported **HB 354, HB 369, HB 435, HJR 13** with Committee Amendment attached thereto, and **SB 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 354, AN ACT relating to police in cities of the fourth class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.700 is amended to read as follows:

[(1)] The city legislative body in cities of the fourth and fifth classes may, by ordinance, establish a police department, appoint its members, and provide for their number, grades, compensation and regulation.

[(2) Except in cities of the fourth class which have accepted and adopted KRS 95.761 to 95.784, the term of office of members of the police department appointed by the city legislative body shall not exceed two years. The city legislative body shall reappoint to their office, members of the police department who have not yet reached the age of retirement unless sufficient cause be shown for the failure to reappoint them. They shall be subject to removal for cause.]

SECTION 2. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) In cities of the fourth class which have not accepted and adopted KRS 95.761 to 95.784, the term of police officers shall not exceed two (2) years. Members of the police department who have not yet reached the age of retirement shall be reappointed to their office and to a grade no lower than that held by them at the expiration of their prior term, unless sufficient cause shall be shown for the failure to reappoint them or for the reduction in grade or pay.

(2) Members of the police department shall be subject to removal at any time for cause. No member shall be removed from the department or fail to be reappointed, or be reduced in grade or pay, or be publicly reprimanded or be suspended or otherwise punished for any reason except inefficiency, misconduct, insubordination, violation of law or violation of written rules adopted for the department.

(3) Any person may prefer charges against a member of the police department and it shall be the duty of the mayor and each member of the city legislative body, whenever probable cause appears, to prefer charges against any member of the police department whom that person believes to be guilty of conduct justifying not reappointing the member or the removal, reduction in grade or pay suspension, public reprimand or other punishment of the member in the interest of public order. All charges brought against any member of the police department by anyone must be written, signed by the person making the charges and must clearly set out each charge and the facts supporting it. The written charges must be filed with the mayor and the city clerk before any action regarding the charges may be taken.

(4) If the written charges are filed with the mayor and city clerk, a hearing on the charges shall be held before the legislative body within fourteen (14) days of the filing, provided that no hearing shall be held until four (4) days after the accused member has been served with a full copy of the charges and a statement of the time, day and place of the hearing. Service by mailing a copy of the charges to the last known address of the accused member shall be sufficient. The member may, in writing, waive the service of the charges and the hearing may be held by mutual agreement.

(5) The hearing before the legislative body shall be confined to the written charges previously filed. The legislative body and the accused member shall have the power to summon and compel the attendance of witnesses upon subpoena issued by the city clerk and served by any person authorized to serve subpoenaes from the court of justice. The legislative body shall have the contempt powers of a district court judge with regard to the hearing.

(6) The legislative body, at its own expenses, shall cause the entire hearing to be transcribed. The legislative body shall make detailed, written, findings of fact and a written decision. The transcript, together with the written charges, the notice to the accused and copies of all subpoenaes, shall be kept in a separate book maintained in the office of the city clerk. The legislative body shall, by majority vote, fix punishment against a member of the police department by public reprimand or by suspension for any length of time in

their judgment, not to exceed six (6) months, or by reducing the member in grade or pay, or combining any two (2) or more of said punishments, or by failing to reappoint such member to the police department or by the removal of such member from the police department. No member of the police department shall fail to be reappointed or shall be publicly reprimanded, removed, suspended or reduced in grade or pay other than in the manner provided in this section.

(7) In cases where the mayor has probable cause to believe that a member of the police department has been guilty of any conduct justifying any of the above punishments, he may suspend said member from duty, or from both pay and duty, pending the hearing and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body in the manner and within the time limitations provided for herein.

(8) The provisions of this section shall not apply to or affect proceedings against police officers under KRS Chapters 61 and 63, and shall further not apply to chiefs of police.

HB 369, AN ACT changing the classification of the city of Douglass Hills, in Jefferson County.

WHEREAS, satisfactory information has been presented to the general assembly that the population of the city of Douglass Hills, in Jefferson County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The city of Douglass Hills, in Jefferson County, is transferred from the sixth to the fourth class of cities.

HB 435, AN ACT relating to joint city-county motor vehicle parking authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 94.810 is amended to read as follows:

(1) Any city by ordinance may create motor vehicle parking authorities, *or at any time, the legislative body of a city by ordinance and the fiscal court of the county containing the city may enter into an agreement to form a joint city-county motor vehicle parking authority.* Such parking authorities shall have the power of acquisition, creation and operation of public street and off-street parking facilities. Such powers shall include, but not be limited to, the powers given to cities, by KRS 93.352 to 93.356 and 94.750. The fees charged need not be limited to the cost of operation and administration but may be for revenue.

(2) If a city, already having a motor vehicle parking authority in existence, enters into an agreement to form a joint parking authority with the county, the agreement shall provide for the assumption of the debts and liabilities of the existing parking authority by the joint parking authority and the transfer of any assets of the existing parking authority, including real property and improvements, to the joint parking authority.

(3) The termination of an agreement between a city and county to form a joint parking authority will not result in the continued existence of a city motor vehicle parking authority, unless specifically provided for in the agreement.

Section 2. KRS 94.815 is amended to read as follows:

(1) A city parking authority shall consist of five (5) persons appointed by the mayor with the approval of the city or urban-county government legislative body, to serve as commissioners of the local parking authority. Three (3) of the commissioners who are first appointed shall be designated to serve for terms of one (1), two (2), and three (3) years, respectively, and the remaining two (2) of such commissioners shall be designated to serve for terms of four (4) years each, from the date of their appointment. Upon expiration of the staggered terms, the successors shall be appointed for a term of four years. Appointments to complete unexpired terms of office shall be made in the same manner as the original appointments. [The commissioners shall constitute the governing body of the parking authority and shall adopt such bylaws, rules and regulations as are necessary for governing of the authority.]

(2) A joint city-county parking authority shall consist of six (6) commissioners. Three (3) of the commissioners shall be appointed by the mayor with the approval of the city legislative body. Three (3) of the commissioners shall be appointed by the county judge/executive with the approval of the fiscal court. The three (3) commissioners who are first appointed by the mayor shall be designated to serve for terms of one (1), two (2) and three (3) years respectively and the same shall be true for the commissioners initially appointed by the county judge/executive. Upon expiration of the staggered terms, the successors shall be appointed for a term of four (4) years. Appointments to complete unexpired terms of office shall be made in the same manner.

(3) The commissioners shall constitute the governing body of the parking authority and shall adopt such bylaws, rules and regulations as are necessary for governing of the authority. Any *commissioner* [member of the board] may be removed from office upon a vote of a majority of the members of the governing body *which approved his appointment* [of the municipality] for inefficiency, neglect of duty, misfeasance, nonfeasance, or malfeasance; after at least ten (10) days' written notice of the hearing to the member whose conduct is in question and to all members of the governing body. At the hearing the member may be represented by counsel and may appear personally and present such pertinent evidence as he wishes. If after the hearing the governing body determines that he is guilty of the charges they shall remove the member from the authority within seven (7) days, and there shall be a vacancy of the office.

(4) [(3)] *The commissioners of a motor vehicle parking authority* [These five (5) persons] are a body corporate constituting a public corporation and a governmental agency within the meaning of KRS 58.010, and shall have all the powers granted by KRS 58.010 to 58.170.

Section 3. KRS 94.820 is amended to read as follows:

The [city] legislative body may fix the compensation of the *commissioners whose appointment they approve* [board members]. The compensation of a *commissioner* [board member] shall not be decreased during the term to which he was appointed.

Section 4. KRS 94.825 is amended to read as follows:

A [The] parking authority shall have the power to contract with any city *or county* in accordance with the provisions of KRS 93.351 to 93.359, 94.750 and 82.050.

HJR 13, A JOINT RESOLUTION authorizing and directing the creation of a Special Commission on Planning Law Revision.

WHEREAS, local government planning and zoning activities greatly affect the lives of citizens of the Commonwealth; and

WHEREAS, the Kentucky Revised Statutes relating to local government planning have not been comprehensively revised since 1966; and

WHEREAS, the House of Representatives, during the 1976 regular session, directed a comprehensive review of local planning laws in Kentucky; and

WHEREAS, the aforementioned review and subsequent report concluded that any changes in local planning laws should be part of a comprehensive revision rather than of a piecemeal nature; and

WHEREAS, the Kentucky Planning Association and the Kentucky Section of the American Institute of Planners have adopted identical resolutions urging the General Assembly to make no piecemeal changes to the planning and zoning statutes during the 1978 session but, rather, to undertake a complete and comprehensive rewrite of all of the state's statutes concerned with planning and zoning during the 1978-80 interim;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission shall appoint, by July 1, 1978, a Special Commission on Planning Law Revision to draft and propose to the 1980 General Assembly a comprehensive revision of Kentucky's planning laws.

Section 2. That the commission shall include the following thirteen (13) members: one (1) member from both the House and Senate Committees on Cities, one (1) member from both the House and Senate Committees on Counties and Special Districts, four (4) other members of the General Assembly of whom two (2) shall be from the House and two (2) from the Senate, one (1) local official representing municipal government, one (1) local official representing county government, one (1) person actively engaged in planning in Kentucky and two (2) citizens of the Commonwealth.

Section 3. That the commission shall conduct appropriate public hearings on its proposed legislation before the 1980 session.

Section 4. Staff services and expenses for the commission are estimated to cost $20,000. These staff services and expenses shall be provided from the regular Legislative Research Commission budget and are subject to the limitations and other research responsibilities of the Legislative Research Commission.

The Committee Amendment to **HJR 13** is as follows:

Amend printed copy of **HJR 13,** page 3, by adding after line 1 the following:

"Section 5. The commission shall report its findings and recommendations to the appropriate interim legislative committee no later than September 15, 1979 and a copy shall be sent to each member of the General Assembly."

SB 37, AN ACT relating to the commission form of government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 89.280 is hereby repealed.

The Committee on Elections and Constitutional Amendments reported **HB 75** with Committee Amendment attached thereto, **HB 187** with Committee Substitute and Committee Amendment No. 1 to the Committee Substitute attached thereto, **HB 342** with Committee Amendment attached thereto, and **SB 17** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 75, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 116 IS CREATED TO READ AS FOLLOWS:

(1) The county board of elections in counties containing a city of the first class shall direct a purge of the voter registration list to be conducted every two (2) years between July 1 and July 15, beginning in July, 1978. In each precinct the purge shall be conducted jointly by the precinct captains of the two (2) major political parties, under the supervision and direction of the county board of elections. For the purge of the precinct, the precinct captains shall be compensated thirty dollars ($30) each by the county board of elections.

(2) Upon completion of the purgation of each precinct, the county board of elections in counties containing a city of the first class shall delete from the county register the name of any voter who is no longer properly registered and notify the voter by mail of its action. If no protest is filed by the voter within thirty (30) days, his name shall be purged. If protest is filed, the county board shall hear the matter at its next regular monthly meeting and either retain or purge the voter's name. If any name is purged, the county board shall inform the state board of elections of its action.

Section 2. KRS 116.145 is amended to read as follows:

(1) The fee for registration of all voters shall be paid to the county clerk by the state in the amount of twenty-five cents (25¢) for each person registered.

(2) The amount of sixty dollars ($60) per precinct shall be paid biennially by the state to the county board of elections in counties containing a city of the first class for the purgation of precincts.

The Committee Amendment to **HB 75** is as follows:

Amend printed copy of **HB 75,** page 1, line 8, after "by" by deleting "the precinct captains" and inserting in lieu thereof, the following: "a person designated by each of the county executive committees";

and line 11, after "the" by deleting "Precinct captains" and inserting in lieu thereof, the following: "designated persons".

HB 187, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. *No person, other than the election officers and challengers, shall remain within fifty (50) feet of any outside door through which a voter may enter the building in which a polling place is located, except when voting.*

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering [at the polling place] on election day *within fifty (50) feet of any outside door through which a voter may enter the building in which the polling place is located* [unless the fiscal court or legislative body of an urban county government specifically authorizes by ordinance on a county wide basis electioneering and establishes the distance from the polling place where such electioneering may be permitted, but in no case shall electioneering be allowed within fifty feet of the polls].

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

The Committee Substitute to **HB 187** is as follows:

HB 187, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place on election day unless the fiscal court or legislative body of an urban county government specifically authorizes by ordinance on a county wide basis electioneering and establishes the distance from the polling place where such electioneering may be permitted, but in no case shall electioneering be allowed within fifty (50) feet *measured radially from any outside entrance to the building in which the voting machine is located* [of the polls]. *In such case, the sheriff of the election precinct shall place markers indicating the fifty (50) foot distance from the outside entrance of the building. Electioneering shall include the wearing of any political badge, button or other insignia, the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner.*

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

Section 2. KRS 117.995 is amended to read as follows:

(1) Any person who violates any provision of this chapter, or who willfully does any act that will accomplish a result intended to be prevented, or that will prevent from being accomplished a result intended to be permitted, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than one (1) year, or both.

(2) Any county clerk, member of the county board of elections or any election officer who willfully violates any of the provisions of this chapter shall be confined in the penitentiary for not less than one (1) nor more than three (3) years.

(3) Any officer who willfully or neglectfully fails to prepare or furnish ballot labels or special ballots or fails to allow a qualified voter to cast his vote on the machine as required of him by this chapter shall be fined not less than one thousand dollars ($1,000) nor more than two thousand dollars ($2,000) for each offense, and in addition thereto may be confined in the county jail for not less than sixty (60) days nor more than six (6) months.

(4) Any person who violates any provision of KRS 117.235 related to prohibited activities on election day after he has been duly notified of such provisions by the sheriff of the election precinct shall be fined not more than fifty dollars ($50) for each offense.

The Committee Amendment No. 1 to the Committee Substitute to **HB 187** is as follows:

Amend printed copy of Committee Substitute for **HB 187,** page 1, line 27 and 18, after "*from*" by deleting the following: "*any outside entrance to the building in which*"

page 1, lines 18 and 19, after "*machine*" by deleting the following: "*is located*"

page 2, lines 1 and 2, after "*include*" by deleting the following: "*the wearing of any political badge, button or other insignia,*".

HB 342, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.065 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 of each year, establish the voting place for each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, for which rent of not less than twenty dollars ($20) shall be paid, shall be paid in the same manner as other election expenses.

(2) The county board of elections shall have the authority to designate as voting places, without cost to the board, buildings constructed in whole or in part with tax revenues.

(3) The county board of elections shall designate as voting sites only those places which are accessible to all eligible voters, including those with physical limitations and the elderly. The accessible entrance, if not readily visible, shall be so marked. "Accessible voting place" means a voting place in a building which has at least one (1) entrance that provides access by ramp or otherwise to physically handicapped or elderly voters and in which the voting place is located on the first floor or is accessible by elevator or is in a building which meets the standards outlined in the American national standard institute specifications.

The Committee Amendment to **HB 342** is as follows:

Amend printed copy of **HB 342,** page 1, line 17, after "*shall*" by inserting the following: "*make a reasonable effort to*".

SB 17, AN ACT relating to school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.240 is amended to read as follows:

(1) The general election laws shall apply to all elections of school board members. [The sheriff of the county in which the school district is situated shall provide for each precinct in the district a separate box for the reception of ballots used in the election of members of the board of education. The judge of election of the opposite political party to the clerk of election in each precinct shall issue the school ballots and observe, as to these ballots, the regulations for the issue and deposit of ballots as are prescribed for elections generally.]

(2) In school districts embracing cities of the first five (5) classes the expense of the election shall be paid by the city from its general funds. In all other districts the expense shall be paid by the fiscal court out of its general funds.

The Committee on Health and Welfare reported **HB 162** with Committee Amendment attached thereto, **HB 263, HB 362,** and **HCR 29** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 162, AN ACT relating to the practice of counseling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "The practice of counseling and the provision of counseling-related services of guidance and personnel service functions" means rendering to individuals, groups, organizations, or the public any service involving the applications of behavioral science methods and procedures of understanding, predicting, and influencing behavior;

(2) "Counseling" means the applications of those principles of counseling, guidance, and personnel service functions which focus on the total developmental process of a person which includes assisting individuals to define goals and plan actions reflecting their interests, abilities, aptitudes, and needs through counseling about educational progress, occupations and careers, and personal-social concerns;

(3) "Professional competencies of counseling" means, but is not limited to, the following:

(a) methods and procedures of intervening;

(b) establishment of operationally definable relationships which assist clients in developing life styles that are personally and socially effective and satisfying;

(c) procedures of selecting, administering, and interpreting instruments that measure mental abilities, aptitudes, interests, attitudes, educational and career development;

(d) personnel selection and management development;

(e) evaluation and planning for effective learning, living, and work situations;

(f) management and resolution of interpersonal and social conflict;

(g) activities which assist in placing the individual in those situations which provide opportunities for optimal growth and development; and

(h) working with groups in the areas of interpersonal, social, educational, and vocational concerns.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

The practice of counseling includes those persons functioning under the following titles: counselor, personal counselor, personnel counselor, vocational counselor, employment counselor, guidance counselor, guidance specialist, school counselor, and any other title which denotes the performance of activities covered in this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this Act shall be construed as prohibiting or authorizing the performance of counseling, guidance, and personnel services by:

(a) Those individuals in the employ of the state and federal governments or accredited institutions of higher education insofar as counseling, guidance, and personnel services or personnel service research problems is a part of the official duties in the salaried position.

(b) Those individuals employed as school counselors and other school personnel who are certified by the state board for elementary and secondary education and whose official duties in the salaried position include counseling, guidance, and personnel services.

(c) Those individuals engaged in counseling, guidance, and personnel services pursuant to the activities of clergymen, psychologists, social workers, marriage and family counselors, attorneys at law, doctors of medicine and dentistry.

(d) Those individuals who are engaged in intern or practicum activities in counseling, guidance, and personnel services in accredited institutions of higher education.

(2) The board of examiners shall be empowered to establish additional exclusions when deemed necessary for the benefit of the public.

SECTION 4. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days from the effective date of this Act the governor shall appoint five (5) members to the board of examiners in counseling. These five (5) appointees shall be selected from a list of ten (10) submitted by the Kentucky personnel and guidance association, all of whom must be eligible for a license, under the provisions of this Act. One (1) of these board members shall be appointed to office for one (1) year, one (1) for two (2) years, one (1) for three (3) years, and two (2) for four (4) years, with a year of service covering the period of July 1 through June 30, with the first term beginning July 1, 1978. Annually thereafter as members' terms expire, the governor shall appoint successors for terms of four (4) years each. These successors shall be nominated from a list of three (3) nominees for each position to be filled. All nominees shall be appointed by the Kentucky personnel and guidance association, and all shall be eligible for licensure according to the provisions of this Act. Any vacancy occurring in the board shall be filled by this same procedure.

(2) The governor shall remove from office, upon recommendation by a majority of the board members and after notice and hearing by them, any member for incompetence, neglect of duty, or malfeasance in office. The only remuneration for board members shall be reimbursement for necessary expenses incurred in the performance of their duties.

(3) Within ninety (90) days after appointment by the governor, the board shall convene to draft rules and operating procedures, governing the functioning of the board in administering the provisions in this Act and to adopt a code of ethics. Three (3) board members shall constitute a quorum.

(4) The board is responsible for preparation or selection and administration of written examinations as required for recommending licensure or certification as specified by this Act. The board shall establish a schedule of fees for licensure, certification, and temporary permits and renewals, and shall collect said fees. The board is empowered to question violations of this law and to bring suit against violators. The board may employ such personnel as needed and shall determine compensation of such personnel.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

During the month of July of each year, the board shall submit to the governor a written report listing all persons who have been granted licensure or certification under the provisions of this Act. This report shall include any hearings conducted by the board and shall indicate decisions rendered.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

The granting of licensure in counseling to any person shall be predicated upon the applicant having met the following qualifications. The applicant shall satisfy the board that he:

(1) Is at least twenty-one (21) years of age;

(2) Is of good moral character as evidenced by letters of recommendation and board review;

(3) Is a citizen of the United States or has declared his intentions to become a citizen;

(4) Resides in the state of Kentucky;

(5) Has received a doctoral degree from an accredited institution of higher education based upon a program of studies primarily oriented toward counseling, guidance, or personnel services;

(6) Has had at least two (2) years professional experience of a type satisfactory to the board; and

(7) Demonstrates professional competency by passing an oral and written examination administered by the board.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

The granting of a certificate in counseling to any person shall be predicated upon the applicant having satisfied the board that he meets all of the licensing requirements except the possession of the doctoral degree. A certificate in counseling may be issued to persons holding at least a master's degree from an accredited institution of higher education based upon a program of studies primarily oriented toward counseling, guidance, and personnel services. The possession of a certificate shall certify that the holder is deemed competent by the board to perform specified functions in counseling under the direct supervision of a person holding a license granted by the board. After a period of two (2) years, the holder of the certificate may petition the board to function without the immediate supervision. Upon completion of an examination by the applicant, the board may endorse the certificate for functioning without immediate supervision.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

Within one year from the passage of this Act, any person who meets the qualifications specified in Sections 6 and 7 of this Act may be considered for a license or a certificate without examination by the board of examiners if:

(1) The applicant has received a doctoral degree from an accredited institution of higher education in a program of studies oriented primarily toward counseling, guidance, and personnel services and offers evidence acceptable to the board of competence, experience, and training;

(2) The applicant has received at least a master's degree from an accredited institution of higher education attained in a program of studies oriented primarily toward counseling, guidance, and personnel services;

(3) Has at least five (5) years of professional experience in counseling; and

(4) Offers evidence acceptable to the board of competence, experience, and training.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

Licenses and certificates must be renewed every three (3) years on or before the anniversary date of issue or renewal. Licenses and certificates shall be renewed for a period of three (3) years upon payment of a fee to be determined by the board of examiners. Licenses and certificates will be cancelled when fees are ninety (90) days in arrears, but may be reinstated if fees are paid within one (1) year of the anniversary date of issue or renewal.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

(1) The board is empowered, upon investigation and affirmative action by the majority of its members to deny, revoke, or suspend for a definite period not to exceed one (1) year, any license or certificate issued under the provisions of this Act. This action may be taken if the applicant or license or certificate holder:

(a) Has been convicted of a felony;

(b) Has used fraud or deception in applying for a license or certificate or in taking an examination provided for in this Act;

(c) Has violated the current code of ethics adopted by the board;

(d) Is using any habit-forming drug or any alcoholic beverage to an extent or in a manner dangerous to any other person or the public, or to an extent that such use impairs the ability to perform the work of a professional counselor with safety to the public; or

(e) Has wilfully or negligently violated any provisions of this Act.

(2) After a period of three (3) years from the date of revocation, a person becomes eligible for applying for reinstatement through procedures to be defined by the board.

(3) The following conditions must be met in order for the board to revoke or deny any license or certificate:

(a) The person shall be granted a fair and impartial hearing to be conducted by the board of examiners;

(b) Written notification must be sent to the person at his last known address at least thirty (30) days prior to the scheduled date of the hearing. Failure to appear at the hearing shall not prevent or invalidate such hearing or any action taken by the board;

(c) For the purpose of such hearing, the board may subpoena persons or papers on its own behalf and on the behalf of the person under consideration, may administer oaths, and may take testimony;

(d) The person under consideration may appear by counsel or in person on his own behalf;

(e) The board's actions and determination relevant to the hearing shall be forwarded by registered mail to the person within ten (10) days following the conclusion of the hearing.

(4) The decision of the board shall become final forty (40) days after the conclusion of the hearing unless within said period the person appeals the decision to the Franklin Circuit Court. Such appeal does not operate as a supersedeas to the revocation or suspension.

SECTION 11. A NEW SECTION OF THE KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

Any person holding a license or a certificate granted under the provisions of this Act shall be immune from disclosing in any civil or criminal court proceeding, without the consent of the client, any communication made by the client to the license or certificate holder in his professional role.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319 IS CREATED TO READ AS FOLLOWS:

Any person who violates the provisions of this Act shall be guilty of a misdemeanor. Such misdemeanor is punishable upon conviction by imprisonment for not more than six (6) months or by a fine of not more than five hundred ($500), or by both fines and imprisonment. Each violation and conviction shall be deemed a separate offense.

The Committee Amendment to **HB 162** is as follows:

Amend printed copy of **HB 162,** page 4, line 10, by inserting before the word "These" the following words: "Four (4) of";

and on line 14, by insertingafter the word "Act." The following sentence: "One (1) appointee shall be a consumer and shall not be eligible for a license or certificate under this Act."

HB 263, AN ACT relating to plumbing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 318.310 is amended to read as follows:

The secretary of the department shall, upon written request from a local board of health, authorize the local board of health to serve as its agent to issue plumbing installation permits for on-site sewage disposal systems within that area of local board jurisdiction. *As agent, the authorized local board of health shall act for the department in issuing permits and granting variances for on-site sewage disposal systems. Actions* [The permits issued] by the local board of health shall comply with the requirements set down in KRS 318.134 and 318.160 and with the regulations established by the department relating to [the issuance of permits for] on-site sewage disposal systems. [A permit issued under these provisions shall be deemed a permit issued by the department.] The local board of health shall include in the written request a procedure for administering this section.

Section 2. KRS 318.134 is amended to read as follows:

(1) No person, firm or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly authorized inspector, employe or agent, finds that the plumbing was not constructed, installed or altered in accordance with such permit and the Kentucky state plumbing code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location and construction of water supply system, type of sewage disposal, location of septic tank, drain field or pit to be used. No plumbing installation permit shall be issued until plans of the sewage disposal have been submitted to and approved by the department together with the results of an approved percolation test.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation or alteration of plumbing in public buildings.

(4) In the case of on-site sewage disposal systems, an authorized local board of health may act for the department, pursuant to KRS 318.310.

Section 3. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, a complete soil study, including among other pertinent data, the results of percolation tests shall be submitted. Such percolation tests shall be conducted in accordance with the standards adopted by the department. All plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans. The construction, installation or alteration shall be done in accordance with the approved plans. *In the case of on-site sewage disposal systems, an authorized local board of health may act for the department, pursuant to KRS 318.310.*

HB 362, AN ACT relating to the parole board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.330 is amended to read as follows:

(1) The board shall:

(a) Study the case histories of persons eligible for parole, and deliberate on that record;

(b) Conduct hearings on the desirability of granting parole;

(c) Impose upon the parolee or conditional releasee such conditions as it sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons charged with violations of parole and conditional release and conduct hearings on such charges*, subject to the provisions of Section 3 of this Act*;

(f) Determine the period of supervision for parolees and conditional releasees, which period may be subject to extension or reduction after recommendation of the bureau is received and considered;

(g) Grant final discharge to parolees and conditional releasees.

(2) The board shall adopt an official seal of which the courts shall take judicial notice.

(3) The orders of the board shall not be reviewable except as to compliance with the terms of KRS 439.250 to 439.560.

(4) The board shall keep a record of its acts, shall notify each institution of its decisions relating to the persons who are or have been confined therein, and shall submit to the governor a report with statistical and other data of its work at the close of each fiscal year.

Section 2. KRS 439.340 is amended to read as follows:

(1) The board may release on parole such persons confined in any adult state penal or correctional institution of Kentucky as are eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission and at such intervals thereafter as it may determine, the bureau of corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. Such information shall include his criminal record, his conduct, employment and attitude in prison, and the reports of such physical and mental examinations as have been made. The bureau of corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The bureau of corrections shall prepare a report on such information as it obtains. It shall be the duty of the bureau of corrections to supplement this report with such material as the board may request and submit such report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or one or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt [such] rules or regulations [as it may deem proper or necessary] with respect to the eligibility of prisoners for parole, the conduct of parole *and parole revocation* hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with *professionally accepted* [prevailing] ideas of correction and reform *and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with such other factors involved that would relate to the inmate's needs and the safety of the public.*

(4) Whenever an order for parole is issued it shall recite the conditions thereof.

SECTION 3. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:
Preliminary revocation hearings of parole and conditional release shall be conducted by two (2) hearing officers. These hearing officers shall be attorneys, appointed by the board and admitted to practice in Kentucky, who shall perform the aforementioned duties and any others assigned by the board.

HCR 29, A CONCURRENT RESOLUTION directing a study of alternative on-site sewage disposal systems as they apply in rural Kentucky.

WHEREAS, numerous health problems have developed with the improper installation, utilization, and inadequate functioning of septic tanks; and

WHEREAS, 50% of the taxpayers of Kentucky are not on sewers; and

WHEREAS, further economic development and growth are needed in the rural areas of the Commonwealth and conventional municipal disposal systems are not physically, technologically, or economically suitable for these areas; and

WHEREAS, innovations in on-site disposal have occurred and have resulted in tested, reliable, and environmentally sound alternatives to conventional disposal; and

WHEREAS, recent 1977 amendments to the Federal Water Pollution Control Act make individual, on-site wastewater treatment systems eligible for monies under the Municipal Construction Program; and

WHEREAS, other provisions require that a minimum of 4% of a rural state's allotment be set aside for alternatives to conventional treatment facilities; and

WHEREAS, eligibility for grants to privately owned sewage systems will depend on application by a public body as part of a comprehensive system for inspection, operation and maintenance of on-site systems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be directed to conduct a study of alternative approaches to the management and utilization of on-site sewage disposal systems for Kentucky.

Section 2. That a report of the findings and recommendations of the study for the use and management of alternative systems in Kentucky, be reported to the Interim Joint Committee on Health and Welfare not later than June 1, 1979, and that such findings and recommendations be submitted for consideration to the 1980 General Assembly.

The Committee on State Government reported **HB 202, HB 214** with Committee Amendment attached thereto, **HB 221, HB 350, HB 469,** and **HR 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 202, AN ACT relating to retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 61.510 to 61.692 IS CREATED TO READ AS FOLLOWS:
Any former member of the Kentucky employes retirement system who was determined to be in a hazardous position in accordance with KRS 61.592(1) and (2) and whose service retirement from such position was effective after such determination but prior to July 1, 1976 due to the revocation of any medical certification required for the continued performance of the duties of the hazardous position shall have his retirement allowance recomputed in accordance with KRS 61.592 as amended by Chapter 321, Section 21, Acts of the 1976 General Assembly.

HB 214, AN ACT relating to the lease of real property by the state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:
The executive department for finance and administration shall be responsible for the lease of all real property rentals required for use by all branches, departments and agencies of the state government, and no lease of real property shall be binding against the Commonwealth or any agency thereof unless made and entered into as provided in this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:
(1) Whenever an agency determines that it will need office or other space it shall submit a request for the acquisition of such additional space to the bureau of public properties in the executive department for finance and administration. If the bureau of public properties determines that insufficient space has been allocated to the agency making the request, it may then acquire the space required by lease as provided by this Act.

(2) The bureau of public properties shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is no suitable space available in a state-owned or occupied building, the bureau shall, except as provided in Section 3 of this Act, cause an advertisement to be placed in a newspaper having general circulation in each county where space is sought, soliciting negotiations of a lease to the Commonwealth of space meeting the agency's general requirements. The advertisement shall be published two (2) times during any seven (7) day period in daily newspapers and one (1) time in weekly newspapers. Whenever an advertisement for space is made in a weekly newspaper, it shall also be made in a newspaper of daily publication in the county of closest geographic proximity to the county in which the space is sought and for which advertisement has been made in a weekly newspaper. All leases of space in Franklin County, and all leases in any county for which the annual rental charge is estimated to exceed one hundred thousand dollars ($100,000), shall be published in at least two (2) newspapers having broad circulation within the state, to be designated by the secretary of the department, in addition to a newspaper published and of general circulation in the county in which the space is sought. The advertisement shall contain such general information concerning the agency requirements for the space sought as will reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date and place that responses will be received. Responses may be made by any person verbally or in writing on or before the time and date designated and need only designate the type and location of the property, the name and address of the property owner and the date of the availability of the property for lease.

(3) Following the expiration of the time specified for the submission of proposals, the space proposed to be leased to the state by each person submitting a proposal will be inspected to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner or other person submitting the proposal shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted to the commissioner of the bureau of public properties who shall, after consultation with the head of the agency for whose use the space is sought, determine the best proposal received in the interest of the state. The commissioner shall, in making his determination, take into account factors including but not limited to: the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; the proposed rental rates; and the general conformity of the property proposed to the advertised space requirements. The lease of the space shall be awarded in the discretion of the commissioner of the bureau to the person whose proposal most closely conforms to the general requirements of the advertisement for the space and meets applicable state fire, health, safety and sanitation requirements and the requesting agency's reasonable space requirements.

(4) Recognizing the improbability that any two (2) properties proposed to be leased to the state under this section will be identical and that reasonable men might differ in determining the best proposal received for the lease of property to the state, it is the general assembly's intention in this section to confer upon and delegate to the commissioner of the bureau of public properties through the department, the broadest possible power and authority to make such determinations. Judicial review of the action of the department and the commissioner of the bureau in the award of leases under this section shall be limited to determining whether the award of a lease by the state was procured by fraud. Any person who by judicial process, unsuccessfully challenges the award of any lease of space by the state under this section shall be liable to the state for its costs in the action, including reasonable attorneys fees.

SECTION 3. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Newspaper advertisements soliciting proposals for the lease of space by the Commonwealth shall not be required if space suitable to the needs of the agencies for whose use space is sought is determined to be available for lease in a building owned by the federal government, by a political subdivision or municipal corporation of this state, or if the space is required as a result of a bona fide emergency as defined in subsection (2) of this section.

(2) A bona fide emergency, authorizing dispensation of newspaper advertisement for leased space, shall be deemed to exist only in cases where the head of an agency already occupying leased premises certifies in writing to the secretary of the executive department for finance and administration that:

(a) The leased premises have been damaged or destroyed by fire, windstorm or other casualty; or

(b) The leased premises are found to be in violation of regulations of the Kentucky occupational health and safety commission and such violations cannot be remedied within thirty (30) days after the issuance of a citation to the lessor of the premises; or

(c) The leased premises are found to be unsafe or unfit for occupancy due to any condition constituting a violation or infraction of fire or health laws and regulations and cannot be made safe within a reasonable time; or

(d) The necessity for leased premises arises from the enactment or adoption of federal legislation or regulations or state legislation, the effective date of which mandates commencement of programs to be housed in leased of space before there is time for space to be acquired by advertisement; and,

(e) The agency's functions will be impaired or have to be discontinued unless other quarters to house the agency's operations are immediately located and occupied by the agency.

(3) Upon receipt of certification of the existence of any of the foregoing conditions by the department, the bureau of public properties shall take such action as may be deemed appropriate to locate and negotiate for the lease of space meeting the certifying agency's reasonable needs. No lease by the state of any real property under conditions deemed of an emergency nature by the heads of the several branches, departments or agencies of the state government shall be binding against the state unless approved by the governor.

SECTION 4. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Except when another lease term is approved by the secretary of the executive department for finance and administration, the terms of all leases entered into under this section may provide for an initial lease term beginning on a date stated and ending on the thirtieth (30th) day of June in each year in which the general assembly has convened in regular session and appropriated funds for the operation of the state government during the next ensuing biennium. Such leases may grant the state successive options for the automatic renewal of the lease upon the same terms and conditions for additional renewal periods of twenty-four (24) months each, not to exceed three (3) such automatic renewal periods. Any lease containing provision for the automatic renewal of the lease after the expiration of the initial lease term shall also provide that the state may, upon written notice given to the lessor on or before April 15 of the year in which the initial or any automatic renewal term expires, elect not to exercise its option for the automatic renewal of the lease term. Subject to the agreement of the lessor, a lease in which the final automatic renewal period has expired, or will expire as of the end of the then current term, may be renewed upon the same terms and conditions without newspaper advertisement for space.

SECTION 5. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) When a lease of space has been made and entered into as provided in this Act, the lease may be modified with the agreement of the lessor to increase the square footage of the leased space provided that the rental rate paid for such additional space shall in no case exceed the per square foot rental rate fixed by the original lease. Conversely, the lease may be modified with the agreement of the lessor to decrease the number of square feet covered by the lease to conform to an agency's space needs and the rent shall be reduced accordingly.

(2) Appropriate modification shall be made in all leases to reflect changes in ownership in the leased premises or when the lessor has given written notice of a change in the lessor's name or address. When there

has been a change in ownership in the leased premises, the new owner shall furnish the bureau of public properties a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease, and such other evidence in support of his claim to the payment of rent under the lease as the bureau may require. When information is received by either the agency occupying leased premises or the executive department for finance and administration that there may have been a change in ownership of the leased premises, payment of rent shall be suspended and shall not be resumed until ownership of the premises and the identity of the party entitled to payment of the rent has been determined.

(3) An existing lease may be modified to provide for an increase in the rental rate when the lessor has made improvements in the leased premises at the request of and for the benefit and convenience of the state agency occupying the leased premises; provided, however, that the state shall not be bound by nor have any liability for any improvements made in leased premises unless such agency request for the improvement of the premises has been approved in advance by the executive department for finance and administration. No improvement of a permanent nature shall be made at direct state expense in any privately leased property, but improvements of a permanent nature may be made at direct state expense in property leased from the federal government or from any political subdivision of this state if the state has a leasehold interest in such property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.

SECTION 6. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

The amount of rent to be paid for leased property shall be finally determined during negotiations with persons submitting proposals in response to advertisements for leased space. If only a part of a building is to be leased, the rent shall be calculated by multiplying the agreed per square foot rental charge by the number of square feet for all space in the building exclusively occupied by the agency for whose use the space is sought. When one (1) or more state agencies occupy an entire leased building, the rent shall be calculated by multiplying the agreed per square foot rental charge by the number of square feet of floor space in the building as determined by its exterior horizontal dimensions, times the number of floors, including basement and attic areas.

SECTION 7. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

Whenever the owner of real property leased to the state is a corporation or a partnership, a list of the names of all persons owning five percent (5%) or more of the shares of such corporation, and the names of all partners, including silent and limited partners, shall be furnished to the department. The bureau of public properties shall maintain such lists in the file pertaining to the particular lease or leases of property owned by such corporation or partnership and such lists shall be available for public inspection as provided by KRS 61.870 to 61.884.

SECTION 8. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) No officer or employe of any state agency shall engage in any act or make any representation or commitment to any person relative to the lease of any real property by the state without specific written authorization from and approval by the executive department for finance and administration and neither the state nor the department shall be bound by such act, representation or commitment unless so authorized and approved.

(2) No officer or employe of any state agency shall disclose to any person or firm who might reasonably be expected to submit a proposal, any approved plans by the department for the lease of real property for which advertisement is required under this Act prior to the advertisement. Discussions of such approved leasing plans may be held after advertisement with persons interested in submitting a proposal pertaining to the space requirements.

The Committee Amendment to **HB 214** is as follows:

Amend printed copy of **HB 214**, page 3, line 7, by deleting the words "verbally or".

HB 221, AN ACT relating to state police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

Any state police officer (as defined in KRS 16.010) who becomes disabled as a result of an injury or disease arising out of and in the course of employment with the bureau shall be retained on the regular payroll of the bureau of state police subject to the following:

(1) Compensation paid to the officer by the bureau shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the bureau, and shall include annual increments, salary adjustments, and other benefits of employment, provided, however, such compensation paid to the officer by the bureau shall be reduced by the amount of payments received by the officer from workmen's compensation insurance, social security benefits and other federal or state financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care.

(2) Such officer shall be assigned by the commissioner of the bureau of state police to a position in the bureau for which he is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this Act. If the commissioner determines that the officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this Act without the performance of limited duties.

(3) Payments made pursuant to this Act shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to KRS 16.581 or KRS 16.591.

Section 2. KRS 16.581 is amended to read as follows:

(1) In the event disability is total and permanent as provided in KRS 16.580 and occurs on or after July 1, 1968 as a direct result of an "act in line of duty," the member in service *may* [shall] retire on his disability retirement date and shall be eligible to receive retirement benefits as follows:

(a) For the disabled member benefits as provided under subsection (2) of this section, except that there shall be no service requirement for eligibility except that the member be employed and the monthly retirement allowance payable shall not be less than twenty-five per cent (25%) of the member's monthly final rate of pay.

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due a monthly payment equal to ten per cent (10%) of the disabled member's monthly final rate of pay, however, total maximum dependent children's benefits shall not be greater than forty per cent (40%) of the member's monthly final rate of pay.

(2) In the event disability is total and permanent as provided in KRS 16.580 and is not a direct result of an "act in line of duty," the member in service with five (5) years of service credit shall retire on his disability retirement date and shall be eligible to receive benefits under subsections (3) to (4) of KRS 16.576 except that service credit shall be added to the member's total service beginning with his last date of paid employment and continuing to his fifty-fifth (55th) birthday, however, the maximum service credit added shall not exceed the total service the member had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty (20) years, except when the member has accumulated total service of twenty (20) or more years his total service shall be used in computing disability benefits.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4) In lieu of the allowances provided by subsections (1) and (2) of this section, the member may be retained on the regular payroll and receive the compensation authorized by Section 1 of this Act, if he qualifies therefor.

Section 3. KRS 16.591 is amended to read as follows:

(1) In the event disability is partial as provided in subsections (1) and (2) of KRS 16.586 and as determined by the board, a member shall be eligible to receive benefits under subsection (2) of KRS 16.581 except that the monthly retirement allowance shall be reduced by his disability ratio.

(2) In event disability is partial as provided in subsection (3) of KRS 16.586 and as determined by the board, the retirement allowance of such member shall be reduced by his disability ratio. Reduced payments shall begin in the month following the termination of payments under total and permanent disability.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4) In lieu of the allowances provided by subsections (1) and (2) of this section, the member may be retained on the regular payroll and receive the compensation authorized by Section 1 of this Act, if he qualifies therefor.

HB 350, AN ACT relating to military service credit within the Kentucky retirement systems and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Whereas, KRS 61.555 permits a veteran to purchase military service by paying 35% of the actuarially determined cost which is to be matched with state funds, the following sums are appropriated out of the general fund in the state treasury:

To the Kentucky retirement systems for matching military service payments as provided in KRS 61.555,

1977-78	$125,000
1978-79	$125,000

HB 469, AN ACT relating to activities, state agencies and institutions in competition with private enterprise.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) No state agency or institution supported in whole or in part by monies derived from taxpayers except:

(a) Existing enterprises which are concerned with any aspect of the administration of justice in the Commonwealth of Kentucky;

(b) Cooperative programs in connection with an educational program or course of study;

(c) State parks operations; and

(d) State purchases and operation of rail cars

shall have the power to engage in any activity which will be in competition with existing private enterprise, when that service is being provided by private enterprise, except as permitted by the provisions of this Act.

(2) The secretary of public protection and regulation shall determine, upon petition by an affected individual or corporation, whether a government agency or institution is in competition with an existing private enterprise.

(3) If the secretary finds that a state agency is in competition with an existing private enterprise, he shall direct the state agency or institution not to engage in a proposed activity or to terminate its activity in the affected area except under the following conditions:

(a) If upon the application of a state agency or institution to the secretary of public protection and regulation, the secretary determines that a bona fide emergency exists and that services which would be in competition with private enterprise should be performed by a state agency or institution; or

(b) If after a hearing in which all parties have been afforded an opportunity to present evidence to the secretary of public protection and regulation, the secretary determines that there will be a substantial savings to the commonwealth and that private enterprise cannot adequately perform the needed service.

(4) The secretary shall submit his decision along with written findings within twenty (20) days regarding his decision to authorize, terminate or to permit the continuance of an activity of a state agency or institution in competition with private enterprise and shall make available copies to all parties in interest.

(5) An appeal from an order of the secretary of public protection and regulation may be taken to the circuit court where the petitioner does business or to the Franklin circuit court.

(6) Activities of state agencies or institutions, in operation at the effective date of this Act, which are found to be in competition with private enterprise, may continue until July 1, 1978, or until the expiration date of the contract if entered into prior to the effective date of this Act, at which time they must cease, unless such activity is approved by an Act of the 1978 General Assembly.

HR 47, A RESOLUTION honoring the memory of the late former Congressman, the Honorable Frank Albert Stubblefield.

WHEREAS, the Commonwealth of Kentucky lost a great public servant upon the death of the Honorable Frank Albert Stubblefield on October 14, 1977; and

WHEREAS, Frank Albert Stubblefield began his public career as city councilman in Murray, Kentucky, and Railroad Commissioner, in which capacities he served with great diligence; and

WHEREAS, he served his nation with patriotism and distinction during the Second World War wherein he sustained injuries while serving the cause of freedom; and

WHEREAS, Frank Albert Stubblefield was in 1958 elected to Congress from Kentucky's First District where he served with undisputed dedication the public trust he respected and treasured so greatly; and

WHEREAS, during his first term in Congress he became a member of the powerful House Agriculture Committee where he championed the needs of farmers and the agriculture industry; and

WHEREAS, Frank Albert Stubblefield served as vice chairman of the House Agriculture Committee and made great contributions to his people and the nation during his eight terms, for which he should long be remembered with our unending gratitude;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the memory of Frank Albert Stubblefield, the strong, valuable and conscientious legislator, be honored by adjourning the House of Representatives in his memory on ----------------.

Section 2. That the clerk of the House of Representatives be and hereby is directed to send a copy of this resolution to the widow of the Honorable Frank Albert Stubblefield, at Murray, Kentucky.

The Speaker vacated the chair.

Representative B. Richardson presiding.

Calendar

HB 210, HB 360, HB 45, HB 231, HB 340, HJR 16, SB 36, SB 40, HB 211, HB 280, SB 50, SB 153, HB 251, HB 307, HB 395, HB 209, HB 316, HB 358, HB 297, HB 301, HB 378, HR 14, HB 408, HB 41, and **HJR 6** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Riner moved the adoption of the following Legislative Citation No. 37:

The House of Representatives hereby commends Judge Hugh Wesley Goodwin for his outstanding conduct as Municipal Court Judge, Fresno, California, in demonstrating that Christian Heritage cannot and should not be separated from our American Heritage. Furthermore, we commend his leadership and emphasis on the positive rehabilitation of offenders through Church attendance rather than jail sentencing. We applaud him for his courageous leadership and dedication. (Sponsored by Representative Riner)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Burnette, **HB 540**; Representative Craddock, **HB 352**; Representative Imes, **HR 54**; Representative Kleier, **HB 530, HB 531**; Representative Plummer, **HB 480, HB 485, HB 527**; Representative Romines, **HB 179**; Representative Yates, **HB 380.**

Representative Little requested that he be recorded as voting "yea" on **HB 39.** Agreed.

Representative May moved the adoption of the following Legislative Citation No. 36:

The House of Representatives hereby commends the Hazel Green High School for not missing a single day of school during the hardest winter this state has endured. The striving desire to continue in the midst of natural disaster, should forever be a source of pride and honor to the school's administration, faculty, the students and their parents, and all who proclaim their affection and allegiance to education, and dedication in keeping their school doors open. (Sponsored by Representative May)

Agreed.

Representative Benson moved the adoption of the following Legislative Citation No. 16:

The House of Representatives hereby commends Mrs. Alice Potts for her outstanding services as a Legal Secretary for half a century. Her scholarly performance and comprehensive accomplishments gained her respect, admiration, and superlative recognition on the tri-level; local, state, and national. She was a charter member and served in every leadership position of the Legal Secretaries Association with excellent attendance. She was acclaimed Louisville's Legal Secretary of the Years 1967 and 1972; and State Legal Secretary of the Year 1972. She worked for Judges, Mayors, Legislators, Congressmen and our distinguished Colleague, Bob Benson. We honor the presence today of Mrs. Alice Potts, and applaud her for a half century of distinguished leadership and dedication. (Sponsored by Representative Benson)

Agreed.

Recess

Representative Benson moved that the House recess for five minutes. Agreed.

The Speaker resumed the Chair.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 43** and **HB 4** had been examined and found correctly enrolled. **SB 43** and **HB 4** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 4 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day

HB 245, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HB 245.** Agreed.

Representative B. Richardson moved that **HB 245,** as amended, be passed.

On the roll call the vote was yeas 62-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Bruce, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, LeMaster, Lindsay, List, Mann, Marcum, McBee, Morris, Nett, Noe, O'Brien, Petty, Priddy, Richards, B. Richardson, Romines, Sale, F. Smith, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright. Nays 25-W. Allen, Boatwright, Brinkley, Brown, Crupper, DeMarcus, Deskins, Fitzgerald, Gay, Head, Layman, Little, Maynard, McKinney, McNutt, Overstreet, Patrick, Pearman, Plummer, Rattliff, Robinson, Schmidt, R. Smith, Stone, White.

HB 245, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 245,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 98, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 98.** Agreed.

Representative Beshear moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 98:**

Amend printed copy of **HB 98,** page 2, line 7, by deleting the brackets around the word "education".

On the roll call the vote was yeas 16-Beshear, Cyrus, Fitzgerald, Gray, Hancock, Hines, Hurst, LeMaster, Mann, Marcum, McNutt, Nett, Noe, Tobin, Wilborn, Williams. Nays 59-Adams, J. Allen, W. Allen, Bendl, Bennett, Blandford, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Isler, Johnson, Layman, Little, May, Maynard, McBee, McKinney, Morris, O'Brien, Overstreet, Pearman, Plummer, Priddy, Rattliff, Richards, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Trevey, Turner, Van Horn, Wright, Yates.

The Floor Amendment No. 1 to the Committee Substitute to **HB 98** was rejected.

Representative Donnermeyer moved that **HB 98,** by way of Committee Substitute, be passed.

Representative Nett moved that **HB 98,** by way of Committee Substitute, be laid on the Clerk's desk.

On the roll call the vote was yeas 6-W. Allen, Crupper, Guenthner, Nett, Pearman, Riner. Nays 72-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Burch, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Noe, Overstreet, Petty, Plummer, Rattliff, Richards, B. Richardson, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates.

The motion that **HB 98** be laid on the Clerk's desk was rejected.

On the roll call the vote was yeas 82-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 9-W. Allen, Brown, Crupper, Guenthner, Holbrook, Holloway, Pearman, Riner, Robinson.

HB 98, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 98,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 304, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 to **HB 304.** Agreed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Noe, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright. Nays 1-Fitzgerald.

HB 304, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 304,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 352 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 352** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 352 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 352** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 200, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of Committee Amendment No. 1 to **HB 200.** Agreed.

Representative F. Smith moved the adoption of Committee Amendment No. 3 to **HB 200.** Agreed.

Representative F. Smith moved the adoption of Committee Amendment No. 4 to **HB 200.** Agreed.

Representative F. Smith moved the adoption of Committee Amendment No. 5 to **HB 200.** Agreed.

Representative F. Smith moved that **HB 200,** as amended, be passed.

On the roll call the vote was yeas 63-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burnette, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Dunn, Foster, Gray, Guenthner, Guy, Head, Hines, Holbrook, Holloway, Imes, Isler, Kenton, Kidd, Kleier, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, Noe, Overstreet, Petty, Plummer, Priddy, Richards, B. Richardson, Robinson, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Turner, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 16-W. Allen, Benson, Clarke, DeMarcus, Haering, Hancock, Layman, McNutt, O'Brien, Patrick, Pearman, Rattliff, R. Smith, Tobin, Trevey, Van Horn.

HB 200, as amended, was passed.

Representative F. Smith moved the adoption of the Committee Amendment No. 2 (Title) to **HB 200.** Agreed.

Representative F. Smith moved that the vote by which **HB 200,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 208** and HB 227 be deferred and that they retain their position in Orders of the Day. Agreed.

HB 269 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holbrook moved that **HB 269** be passed.

On the roll call the vote was yeas 88-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 269 was passed and the title agreed to.

Representative Holbrook moved that the vote by which **HB 269** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 29** and **HB 51** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 179 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of the following Floor Amendment No. 1 to **HB 179**:

Amend printed copy of **HB 179,** page 1, line 19, after the word "woman" by inserting the words "or in cases of incest or rape"

on page 5, line 13, after the word "woman" by inserting a comma and adding the words "or in cases of incest or rape"

and on page 7, line 25, after "woman" by adding "or in cases of incest or rape".

On the roll call the vote was yeas 19-Bendl, Benson, Beshear, Blythe, Boatwright, Davenport, Gray, Head, Hines, Jones, Kenton, Kidd, Lindsay, Noe, Overstreet, R. Smith, Stone, Weinberg, Williams. Nays 65-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Isler, Johnson, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Thomas, Tobin, Trevey, Turner, Van Horn, White, Worthington, Wright, Yates.

The Floor Amendment No. 1 to **HB 179** was rejected.

Representative Donnermeyer moved that **HB 179** be passed.

On the roll call the vote was yeas 84-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Worthington, Wright, Yates. Nays 6-Gray, Hines, Lindsay, Turner, Wilborn, Williams.

HB 179 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 179** was passed by reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 186** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 242 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 242** be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-Bendl, Donnermeyer, Mann.

HB 242 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 242** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 298, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardsom moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of the Committee Substitute to **HB 298.** Agreed.

Representative Nett moved that **HB 298,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, Riner, Robinson, Romines, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 5-Craddock, Dawahare, Foster, Marcum, B. Richardson.

HB 298, by way of Committee Substitute, was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 298** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 299 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 299** be passed.

On the roll call the vote was yeas 73-Adams, W. Allen, Arnold, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Layman, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, White, Worthington, Wright. Nays 11-Beshear, Gray, Hancock, Hines, Jones, Kidd, Lindsay, Noe, Turner, Wilborn, Williams.

HB 299 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 299** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 345, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardsom moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boatwright moved the adoption of the Committee Amendment No. 1 to **HB 345.** Agreed.

Representative Boatwright moved that **HB 345,** as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 4-Craddock, Foster, Schmidt, Tobin.

HB 345, as amended, was passed and the title agreed to.

Representative Boatwright moved that the vote by which **HB 345,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 363 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 84-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Worthington. Nays 3-Clarke, Dawahare, DeFalaise.

HB 363 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 363** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **SB 117** be deferred and that it retain its position in Orders of the Day. Agreed.

Announcements

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 570, by Representatives Priddy, Holloway, Bennett, Dietz, Gay, Hines, Isler, May, Maynard, O'Brien, Riner, Romines, R. Smith, Williams and Yates: AN ACT relating to county police force merit boards.

HB 571, by Representatives Priddy, Dunn, Romines, Bennett and Yates: AN ACT relating to recall of members of school district boards of education.

HB 572, by Representatives Priddy, Holloway, Dunn, Isler, Wright and Yates: AN ACT relating to evidence in controlled substances cases.

HB 573, by Representative Donnermeyer: AN ACT relating to establishing a state labor-management advisory council.

HB 574, by Representative Burnette: AN ACT relating to age discrimination.

HB 575, by Representative Patrick: AN ACT relating to the administration of criminal justice.

HB 576, by Representatives Richards, Arnold, Boatwright, Guy, Hurst, Kenton, List, May, McNutt, Nett, Noe, Thomas and Wilborn: AN ACT relating to public education.

HB 577, by Representatives Siemens, Holbrook, Benson, Beshear, Donnermeyer, Fitzgerald and B. Richardson: AN ACT relating to the general assembly.

HB 578, by Representative Richards: AN ACT relating to pupils in common schools.

HB 579, by Representative Richards: AN ACT relating to educational improvement.

HB 580, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 581, by Representative Johnson: AN ACT relating to motor vehicle equipment.

HB 582, by Representatives Stone and Brinkley: AN ACT relating to jurisdiction of circuit courts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 93, HB 466, HB 341.**

State Government: **HB 480, HB 463, HB 468, HB 272, HB 440.**

Education: **HB 478, HB 348.**

Banking and Insurance: **HB 385, HB 471, HB 266, SB 92, HB 481, HB 445.**

Public Utilities and Transportation: **SB 74, SB 127, HB 517, HB 289.**

Judiciary-Statutes: **HB 347.**

Health and Welfare: **HB 457, HB 530, HB 531.**

Business Organizations and Professions: **HB 548, HB 464.**

Report of Committees

The Committee on Cities reported **HB 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 87, AN ACT relating to the Kentucky Municipal Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 81A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

In order to update the record of incorporation of cities in the secretary of state's office, every city presently operating as a public corporation and a unit of local government shall file with the secretary of state within one (1) year of the effective date of this Act a document listing the name of the city, the year of its incorporation, the present classification and the present boundaries. If a city fails to comply with this section, it shall be barred from receiving state monies until such time as the city complies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
Prior to the incorporation of any unincorporated territory as a city, there shall be established in the county a formation commission. If a county has no formation commission the county fiscal court shall, within thirty (30) days after a petition for incorporation has been filed, unless the petition has been dismissed pursuant to Section 4 of this Act, cause the creation and establishment of a formation commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) The commission shall consist of not less than three (3) nor more than seven (7) members selected as follows:
(a) The county judge/executive or his designee shall be a member and shall serve as chairman.
(b) The county judge/executive shall appoint one (1) representative of each constitutional class of city in the county from a list of three (3) nominated by the mayor of the largest city of each class, and where there is no incorporated city in the county, the county judge/executive shall appoint two (2) residents of the county.
(c) If the number of members as provided above is an even number, the county judge/executive shall appoint an additional member.
(2) The term of each member shall be two (2) years and until the appointment and qualification of his successor, except that the term of the county judge/executive shall expire upon the termination of his office. A member may succeed himself.
(3) The fiscal court shall provide for the necessary expenses of the commission and may provide each member reasonable expenses incurred in the course of commission business.
(4) Vacancies on the commission shall be filled in the same manner as original appointments. A member may be removed for cause by a majority vote of the commission.
(5) An affirmative vote by a majority of the commission is required to take official action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) A petition for incorporation shall be filed with the clerk of the county fiscal court.
(2) A petition for incorporation shall contain:
(a) The signatures and addresses of:
1. A number of registered voters equal to two-thirds (2/3) of the voters of the proposed territory voting in the immediate past general election; or
2. A number of real property owners equal to the owners of at least two-thirds (2/3) of the assessed value of the real property in the proposed territory;
(b) A statement of the boundaries proposed and the number of residents;
(c) An accurate map of the proposed territory;
(d) A detailed statement of the reasons for incorporation including the services sought from the proposed city;
(e) A description of the existing facilities and services within the proposed territory; and
(f) A statement of the form of government under which the city will operate if incorporated, chosen from the forms of government authorized in Sections 24 to 40 of this Act.
(3) Within a period of twenty (20) days after the petition for incorporation has been filed, the county judge/executive shall dismiss the petition if he finds that:
(a) The petition does not comply with the requirements for filing;
(b) The request for incorporation is frivolous; or
(c) Substantially the same proposal has been disapproved by a formation commission within the preceding two (2) years.

SECTION 5. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) The commission shall adopt standards and procedures for the conduct of its proceedings and may:
(a) Subpoena witnesses, documents and materials;
(b) Approve or direct an amendment of a petition, provided the amendment is in conformity with the requirements of Sections 6 and 7 of this Act;
(c) Employ, and the fiscal court shall pay, such personnel as are necessary for a prompt and final determination, with the number of employes being approved by the county judge/executive; and
(d) Exercise all other powers necessary to carry out its purposes.
(2) The commission shall preserve a record of the entire proceedings, pursuant to Section 6 of this Act, which shall be filed with the clerk of the county fiscal court upon final determination.
(3) All reasonable costs of the proceedings shall be borne by the petitioners for incorporation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the petition has been filed, if it has not been dismissed, the formation commission shall conduct a hearing relating thereto. Notice of the hearing shall be published pursuant to KRS Chapter 424.

(2) At the hearing, the commission shall:

(a) Receive all information, written or oral, that any interested person wishes to present and that is relevant to the resolution of the questions before the commission; and

(b) Seek all information, written or oral, that the commission believes will be useful to the resolution of the questions before it.

(3) If the commission amends a petition, it shall give notice of the amendment to the petitioners, and shall publish notice pursuant to KRS chapter 424. If notice of an amendment is given less than seven (7) days before the commencement of the hearing, during the hearing, or after the termination of the hearing, and if any person informs the commission, within seven (7) days from the date such notice is given, of his or her desire to present information relevant to the amendment, the commission shall continue the hearing for a reasonable time or reopen it within a reasonable time to receive that information.

(4) More than one (1) hearing may be conducted by the commission if necessary and appropriate for a complete and final determination.

SECTION 7. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall approve a proposed incorporation if it meets the following standards:

(a) At least three hundred (300) persons reside in the territory sought to be incorporated;

(b) Incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services;

(c) The territory is contiguous;

(d) The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation; and

(e) The interest of other areas and adjacent local governments is not unreasonably prejudiced by the incorporation.

(2) In determining whether the standards for incorporation have been met, the commission shall consider, but is not limited to the consideration of, the following criteria:

(a) Whether the character of the territory is urban or rural;

(b) The ability of any existing city, county or district to provide needed services;

(c) Whether the territory and any existing city are interdependent or part of one community;

(d) The need for city services in the territory;

(e) The developmental scheme of applicable land-use plans;

(f) The area and topography of the territory; and

(g) The effect of the proposed incorporation on the population growth and assessed valuation of the real property in the territory.

SECTION 8. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall, within thirty (30) days of the final hearing, render an order approving or disapproving the proposed incorporation.

(2) If incorporation is approved, the order shall set out the name of the city, a metes and bounds description of its boundaries, and the population contained therein.

(3) The commission shall forthwith certify any final order approving incorporation to the secretary of state who shall file and index the same as a permanent record in that office.

(4) Upon entry of any order of incorporation the county judge/executive shall appoint the elective officers for the city pursuant to the form of government stated in the petition who shall serve until the next election at which officers for cities may be elected.

SECTION 9. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a dismissal of a petition pursuant to Section 4 of this Act or a final order of the formation commission may appeal to the circuit court of the county within thirty (30) days of the entry of the order appealed from in the manner prescribed by Section 52 of this Act.

(2) The court shall conduct the review in the manner prescribed by Section 52 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

Where the proposed boundaries set forth in the petition for incorporation extend into two (2) or more counties, the petition shall be filed with the clerk of the county fiscal court of the county wherein the greatest number of the residents of the proposed territory reside. The county judge/executive of each other affected county shall be an additional member of the formation commission having jurisdiction and shall hold such membership only for the purpose of considering the multi-county problem and until such time that a final order has been issued concerning such territory. If the petition initially concerns boundaries extending into two (2) or more counties, but the formation commission has amended the petition so as to no longer extend into another county or counties, the county judge/executive of such county or counties shall be removed from membership of the commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
After an order establishing a city has been entered, the general laws relating to cities of the class which includes the population of the newly incorporated city shall apply to the city until the city is assigned to another class by the general assembly.

SECTION 12. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) When a city has been assigned by the general assembly to another class, it shall thereafter be governed by the laws relating to the class to which it has been assigned, but the transfer from one class to another shall not affect any ordinance theretofore enacted by the city, except that any ordinance in conflict with the laws relating to cities of the class to which the city has been assigned shall be repealed to the extent it so conflicts.

(2) Any officer holding office in any city changed to a classification other than that held at the time the officer was elected shall hold his office until the term for which he was elected has expired.

SECTION 13. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
Cities bounded in part by the Ohio River shall have concurrent jurisdiction with the Commonwealth over the waters of the river opposite to the city. If the boundary between a city and one (1) or more other cities, or between a city and a county other than that in which the city is situated, is a stream within the state, the city shall have concurrent jurisdiction with the other city or cities, or the county, over the waters of the stream opposite to the city.

SECTION 14. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) If any city fails for one (1) year to maintain a city government by the election or appointment of officers and the levying and collection of necessary taxes, it may be dissolved by judgment of the circuit court on petition filed by a bona fide resident of the city.

(2) A city may be dissolved by judgment of the circuit court on petition filed by a majority of the voters in the city. The petition shall contain the signature and address of each petitioner.

(3) Each petition for dissolution shall be filed in the circuit court of the county in which the greater part of the city is located and shall set out the name and class of the city, a metes and bounds description of its boundaries, the number of voters and residents therein, and other facts relevant to the petition.

SECTION 15. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) Defense to the petition may be made by any voter or resident of the city.

(2) Judgment dissolving a city may not be entered until:

(a) Notice has been published pursuant to KRS Chapter 424 by order of the court fixing a date by which motion for intervention may be filed; and

(b) Provision for equitable disposition of all assets of the city and discharge of all obligations of the city has been made and approved by the court.

(3) Whenever any city is dissolved the judgment shall direct the clerk of the circuit court wherein such judgment is rendered to certify a copy of said judgment not later than ten (10) days thereafter to the secretary of state whose duty it shall be to properly index and file the same as a permanent record in that office.

SECTION 16. KRS CHAPTER 82A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
Each city shall constitute a corporation, with capacity to sue and be sued, to contract and be contracted with, to acquire and dispose of property, and to have a common seal and change it at pleasure or act without a seal.

SECTION 17. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:
(1) A city may exercise any power and perform any function within its boundaries that is in furtherance of a public purpose of the city and not in conflict with a constitutional provision or statute.

(2) A power or function is not in conflict with a statute unless it is expressly prohibited by a statute or irreconcilable with a statute.

SECTION 18. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS;

(1) Except for taxation and regulation, a city may exercise the same powers and perform the same functions beyond its boundaries as within its boundaries.

(2) This section is not a limitation on travel of city officers and employes in pursuance of their business, on police arrest power, or on extra territorial authority granted by other statutes.

SECTION 19. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person desires to offer for dedication by recorded plat any public way or easement within the city limits he shall file with the city legislative body a map or plat of the territory bounded, intersected or immediately adjacent to the proposed public way or easement, showing the proposed name, nature and dimensions of the public way or easement offered for dedication. If the city legislative body believes the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Property dedicated as a public way or easement by the owner within any territory subsequently annexed to a city shall not be a public way or easement of the city until dedication by the owner has been accepted by ordinance.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years.

SECTION 20. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

(1) Upon the adoption of an ordinance by the city legislative body closing the whole or any portion of a public way, the city shall institute an action in the circuit court to have it closed. All the owners of property abutting that public way, or the portion proposed to be closed, shall be made defendants.

(2) If all defendants fail to object to the closing within twenty (20) days after the date of service, the court shall render a decree accordingly, but if any defendants object within the time, the court shall award damages, if any, in the same manner as prescribed by the Eminent Domain Act of Kentucky and shall direct that the public way be closed upon payment into court of the amount awarded. The court shall give these proceedings precedence over other cases.

SECTION 21. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

(1) No tort claim for damages accruing after the effective date of this section shall lie against any city or urban-county government except in the board of claims created under KRS 44.070 in the manner and under the limitations provided in KRS 44.070 to 44.160, this section and Sections 22 and 23 of this Act.

(2) Any defense to such tort claim shall be provided, and any award shall be paid, by the city or urban-county government. Each city or urban-county government shall be assessed and shall remit its pro-rata share of cost of operation of the board pursuant to KRS 44.100.

(3) This section shall not apply to actions maintainable, and shall not limit any amount recoverable, under law prior to adoption of the present Kentucky constitution for injuries resulting in death, or for injuries to person or property.

SECTION 22. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

The board of claims shall have power and authority the same as set out in KRS 44.070 with respect to torts on the part of a city or urban-county government, any of its departments or agencies, or any of its officers, agents or employes while acting within the scope of their employment by the city or urban-county government or any of its departments or agencies.

SECTION 23. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

Any action against a city or urban-county government prosecuted to award or judgment through the board of claims shall preclude the right of a claimant to sue the city or urban-county government, its departments or agencies, or its officers, agents or employes in any other forum.

SECTION 24. KRS CHAPTER 83A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the board of commissioners in any city organized and governed under the city manager plan.

(2) "City" means any city of the second through sixth class.

(3) "Commission" means the city commissison in any city organized and governed under the commission plan.

(4) "Council" means the city council in any city organized and governed under the mayor-council plan.

(5) "Executive authority" means the mayor in any city organized and governed under the mayor-council plan, the commission in any city organized and governed under the commission plan, or the city manager in any city organized and governed under the city manager plan.

(6) "Legislative body member" means a city councilman in any city organized and governed under the mayor-council plan or a city commissioner in any city organized and governed under either the commission plan or the city manager plan.

(7) "Officer" means any person elected to a position by the voters or any person appointed to a position which (a) is created by the Kentucky constitution, the general assembly, or a city; (b) possesses a delegation of a portion of the sovereign power of government; (c) has powers and duties to be discharged which are conferred directly or by implication by a city; (d) has duties performed independently and without control of a superior power other than law; (e) has some permanency; (f) requires an official oath; (g) is assigned by a commissison or other written authority; and (h) provides for an official bond if required by proper authority.

(8) "Ordinance" means an official action of a city legislative body, which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.

(9) "Summary" means a brief narrative prepared under the supervision of an attorney succinctly covering the main points of an official statement or rule in a way reasonably calculated to inform the public as to its meaning.

SECTION 25. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city presently organized and governed under provisions of a mayor-council plan is hereby declared to be organized and governed under the mayor-council plan pursuant to Section 36 of this Act. Each city presently organized and governed under the provisions of a commission plan is hereby declared to be organized and governed under the commission plan pursuant to Section 37 of this Act. Each city presently organized and governed under provisions of a city manager is hereby declared to be organized and governed under the city manager plan pursuant to Section 38 of this Act.

(2) The present organizational structure of each city shall remain in force until changed under this chapter. All ordinances and resolutions presently in force in each city not in conflict with statutes shall remain in force until changed.

SECTION 26. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city organized and governed under the mayor-council plan shall have a mayor and each shall have a legislative body composed of twelve (12) members in cities with populations or twenty thousand (20,000) or more or six (6) members in cities with populations under twenty thousand (20,000) as determined by the most recent federal census. Each city organized and governed under either the commission plan or the city manager plan shall have a legislative body composed of a mayor and four (4) commissioners.

(2) Before expiration of the terms of the legislative body members existing upon the effective date of this Act, each city shall take necessary action to be in compliance with this section and in no event shall a city fail to be in compliance within two (2) years from the effective date of this Act. Compliance may be compelled by injunction upon petition to the circuit court by any citizen of the Commonwealth.

(3) Any city required to change legislative body size under this section as a result of a federal census, except cities which have staggered terms under provisions of Section 34 of this Act, shall take necessary action to be in compliance with this section upon expiration of the terms of legislative body members existing upon the effective date of this Act.

(4) Any city having staggered terms for legislative body members required to increase legislative body size under this section as a result of a federal census shall take necessary action to elect additional legislative body members under provisions of Section 28 of this Act. Length of terms for such additional legislative body members shall be determined as provided in Section 34 of this Act.

(5) Any city having staggered terms for legislative body members required to decrease legislative body size under this section as a result of a federal census shall at the expiration of the terms of half of the legislative body next occurring not fill those offices and at the next succeeding regular election the terms for the remaining legislative body members shall be determined under the provisions of Section 34 of this Act.

SECTION 27. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first Monday of January following his election and shall be four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the legislative body of the city shall fill the vacancy within thirty (30) days.

(3) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first Monday of January following his election and shall be for two (2) years and until his successor qualifies, except as provided by Section 34 of this Act. A member shall be at least twenty-five (25) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(4) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies.

(5) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(6) Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing which shall be conducted and the record maintained in the manner prescribed in Sections 47 to 51 of this Act. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

SECTION 28. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 125 unless the city legislative body prescribes by ordinance, not later than two hundred forty (240) days prior to a regular election in which any city office is to be filled, that election of city officers shall be under nonpartisan city election laws as provided in Section 40 of this Act.

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

SECTION 29. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of -----------."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication for an ordinance by naming and describing the emergency in the ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in such a way as to constitute a complete and permanent record of all ordinances in force in the city, except that the budget ordinance shall be indexed in a way that each index list covers one (1) fiscal year.

(9) No ordinance shall be effective until published pursuant to KRS Chapter 424 either in full or in summary form as designated by the legislative body.

(10) No action of a legislative body shall be invalidated because of improper denomination of an ordinance or other action if the formalities required for adoption have been observed.

SECTION 30. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of each city shall by ordinance fix the compensation of every elected city officer not later than the first Monday in May in the year in which the officer is elected. An elected officer's compensation shall not be changed after his election or during his term of office.

(2) The legislative body of each city shall fix the compensation of each appointed city officer in the ordinance that creates the office and may change it by ordinance.

(3) The legislative body of each city shall fix the compensation of city employes in accordance with a personnel and pay classification plan which shall be adopted by ordinance.

(4) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employe.

SECTION 31. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) All nonelected city offices shall be created by ordinance which shall specify:

(a) Title of office;

(b) Qualifications for office;

(c) Term of office;

(d) Powers and duties of office;

(e) Oath of office;

(f) Bond, if required; and

(g) Compensation.

(2) All nonelected city officers shall be appointed by the executive authority of the city with approval of the city legislative body if separate from the executive authority. The officers may be removed by the executive authority at will unless protected by law.

(3) Each appointed and elected city office existing upon adoption of this Act shall continue until abolished by ordinance, except that the offices of mayor and legislative body member may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.

(4) No city may create any elected office. Existing elected offices may be continued under provision of subsection (3) of this section, but no existing elected office may be changed.

SECTION 32. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city may create the position of city administrative officer which shall be directly responsible to the executive authority of the city. Prior to appointment of a city administrative officer, the city legislative body shall in accordance with Section 31 of this Act set qualifications, which shall include but not be limited to professional training and experience in administration sufficient to insure competence, and list duties and responsibilities of the position which shall include, but not be limited to:

(a) Advise the executive authority of the city in policy formulation on overall problems of the city;

(b) Have major responsibility for preparation and administration of operating and capital improvement budgets under direction of the executive authority;

(c) Advise the executive authority of the city in the appointment of subordinate administrative personnel if not delegated appointment authority by appropriate order; and

(d) Have continuing direct relationships with operating department heads on implementation and administration of programs.

(2) The city administrative officer shall carry out all additional duties lawfully delegated by appropriate order of the executive authority and shall have the same powers as the executive authority in carrying out such duties.

SECTION 33. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but in no event shall the populations of wards be reviewed for equalization less often than each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within two hundred forty (240) days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated in the primary election by ward, but they shall be elected in the regular election at-large in such a way that each ward is equally represented on the legislative body.

SECTION 34. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Staggered terms for city legislative body members may be established or abolished only by popular vote under the provisions of Section 35 of this Act.

(2) If staggered terms for legislative body members are adopted, the length of terms shall be determined in the following manner: subsequent to the election of legislative body members in that same election or in the next regular election but prior to their taking office, it shall be determined that half of the legislative body shall serve a term of two (2) years and half shall serve a term of one (1) year and the determination shall be made by drawing lots. At each subsequent regular election, elections shall be held for half the seats on the city legislative body.

(3) If staggered terms for legislative body members are abolished the length of terms shall be established in the following manner: At the next regular election, the half of the legislative body to be elected shall be elected for one (1) year terms.

(4) No city which changes either to or from staggered terms for legislative body members under this section shall again change sooner than five (5) years from the effective date of the last change.

SECTION 35. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Any public question authorized by statute may be submitted to the voters of a city by either a resolution of the city legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out in full the matter to be considered. The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the effect or impact of the proposal.

(2) Any five (5) qualified voters of the city may commence petition proceedings by filing with the county clerk an affidavit stating they constitute the petition committee and will be responsible for circulating the petition and filing it in proper form. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. It shall set out in full the proposal to be considered by the voters. Promptly after the affidavit of petition committee is filed, the county clerk shall notify the petition committee of all statutory requirements for petitions under this section and shall deliver a copy of the affidavit to the legislative body of the city.

(3) All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall be signed by registered voters of the city equal in number to at least twenty-five percent (25%) of the total number of votes cast in the city in the last presidential election. When it is filed, each sheet of a petition shall have an affidavit executed by the circulator stating that he personally circulated the sheet, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of registered voters in the city and that each signer had an opportunity before signing to read the full text of the proposal. Petitions shall contain or have attached throughout their circulation the full text of the proposal.

(4) Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall send a copy to the petition committee and to the city legislative body by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petition committee files a notice of intention to amend it with the county clerk within five (5) days after receiving the copy of his certificate and files a supplemental petition upon additional sheets within thirty (30) days after receiving the certificate. The supplemental petition shall comply with the requirements of subsection (3) and within ten (10) days after it is filed the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petition committee and to the city legislative body by registered mail.

(5) A final determination as to the sufficiency of a petition shall be subject to review in the circuit court of the county and shall be limited to the validity of the county clerk's determination. A final determination of

insufficiency shall not prejudice the filing in accordance with this section of a new petition for the same purpose.

(6) Upon receipt of a resolution requesting that the question be submitted to the voters or upon certification of a petition as sufficient, the county clerk shall place upon the city ballot for the next regular election that is held not earlier than ninety (90) days after receipt of the resolution or the certification of the petition the question to be submitted to the voters, which question shall be "Are you in favor of the proposal entitled-----? Yes---- No---." The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the sample ballot, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.

(7) The provisions of general election law shall apply to public questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor and the certificate shall be entered upon the records of the city at the next regular meeting of the city legislative body.

SECTION 36. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the mayor-council plan and this section shall together with Sections 24 to 35 and 40 of this Act govern any city declared to be under the mayor-council plan by Section 25 of this Act or which has adopted the mayor-council plan pursuant to Section 39 of this Act.

(2) Each city under this section shall be governed by an elected executive who shall be called mayor and by an elected legislative body which shall be called the city council and by such other officers and employes as may be provided for by statute or city ordinance.

(3) The executive authority of the city shall be vested in and exercised by the mayor. The mayor shall enforce the mayor-council plan, city ordinances and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employes under his jurisdiction and shall require each department to make reports to him required by ordinance or as he deems desirable. The mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The mayor shall report to the council and to the public on the condition and needs of city government as he finds appropriate or as required by ordinance, but not less than annually. He shall make any recommendations for actions by the council he finds in the public interest.

(4) Subject to disapproval of the council, the mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records as provided under Section 29 of this Act.

(5) The mayor shall preside at meetings of the council. The council may set by ordinance the manner in which one of its number may be selected to preside at meetings of the council in place of the mayor. The mayor may participate in council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie.

(6) All ordinances adopted by the council shall be submitted to the mayor who shall within ten (10) days after submission either approve the ordinance by affixing his signature or disapprove it by returning it to the council together with a statement of his objections. No ordinance shall take effect without the mayor's approval unless he fails to return it to the council within ten (10) days after receiving it or unless upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one (1) more than a majority of the membership, the council votes to over-ride the mayor's veto.

(7) Any delegation of the mayor's power, duties or responsibilities to subordinate officers and employes and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and shall be kept in a permanent file.

(8) All bonds, notes, contracts and written obligations of the city shall be made and executed by the mayor or his agent designated by executive order.

(9) The mayor shall be the appointing authority with power to appoint and remove all city employes, except as tenure and terms of employment are protected by statute, ordinance or contract and except for employes of the legislative body.

(10) The mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed in accordance with subsection (7), provided that, approving ordinances or promulgating administrative procedures may only be delegated to an elected officer. With approval of the council, the mayor may rescind any action taken in his absence under this subsection within thirty (30) days of such action. If for any reason the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the council and the provisions of Section 27 of this Act shall apply.

(11) The legislative authority of the city shall be vested in and exercised by the elected legislative body of the city which shall be known as the city council. The council shall not perform any executive functions except those functions assigned to it by statute. Regular meetings of the council shall be held at least once each month at such times and places as are fixed by ordinance. Special meetings of the council may be called by the mayor or upon written request of a majority of the council. In the call, the mayor or council shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of council members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 29 of this Act and by the officer presiding at the meeting.

(12) The council shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The council shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(13) The council shall have the right to investigate all activities of city government. The council may require any city officer or employe to prepare and submit to it sworn statements regarding his performance of his official duties. Any statement required by the council to be submitted or any investigation undertaken by the council, if any office, department or agency under the jurisdiction of the mayor is involved, shall not be submitted or undertaken unless and until written notice of the council's action is given to the mayor. The mayor shall have the right to review any statement before submission to the council and to appear personally or through his designee on behalf of any department, office or agency in the course of any investigation.

(14) The council or its members shall deal with city officers and employes who are subject to the direction and supervision of the mayor solely through the mayor or his agent designated by executive order, and neither the council nor its members shall give orders to any such officer or employe either publicly or privately.

SECTION 37. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the commission plan and this section shall together with Sections 24 to 35 and 40 of this Act govern any city declared to be under the commission plan by Section 25 of this Act or which has adopted the commission plan pursuant to Section 39 of this Act.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the city commission and by such other officers and employes as may be provided for by statute or city ordinance.

(3) All legislative, executive and administrative authority of the city shall be vested in and exercised by the commission. The commission shall enforce the commission plan, ordinances of the city and all applicable statutes. The commission shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The commission shall supervise all departments of city government and the conduct of all city officers and employes under its jurisdiction and may require each department to make such reports to it as it finds necessary. The commission shall report to the public on the condition and needs of the city government as provided by ordinance, but not less than annually.

(4) The mayor shall preside at all meetings of the commission and may vote in all proceedings. All bonds, notes, contracts and written obligations of the city authorized by ordinance or resolution shall be executed by the mayor on behalf of the city. The commission shall designate one (1) city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the commission membership, and the provisions of Section 27 of this Act shall apply.

(5) In carrying out its duty to supervise the departments of city government and the conduct of all city officers and employes under its jurisdiction, the commission may require any city officer or employe to prepare and submit to it sworn statements regarding the performance of his official duties.

(6) All administrative and service functions of the city shall be classified under departments created by ordinance which shall prescribe the functions of the department and the duties and responsibilities of the department head and his employes. The commission shall at its first regular meeting in each year designate the commission member to have superintendence over each department established under this subsection, except the commission may delegate responsibility for overall supervision of any or all departments to a city administrative officer established pursuant to Section 32 of this Act.

(7) Regular meetings of the commission shall be held at least once a month at such times and places as are fixed by ordinance. Special meetings may be called by the mayor or two (2) city commissioners. In the call,

the mayor or city commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of commission members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 29 of this Act and by the officer presiding at the meeting.

(8) The commission shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The commission shall by ordinance provide for sufficient revenue to operate city government and shall appropriate such funds in a budget which shall provide for the orderly management of the city's resources. The commission shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance.

SECTION 38. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the city manager plan and this section shall together with Sections 24 to 35 and 40 of this Act govern any city declared to be under the city manager plan by Section 25 of this Act or which has adopted the city manager plan pursuant to Section 39 of this Act.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the board of commissioners and by such other officers and employes as may be duly appointed according to statute or city ordinance.

(3) The legislative authority of the city shall be vested in and exercised by the board. The board shall not perform any executive functions except those functions assigned to it by statute. The mayor shall preside at all meetings of the board and may vote in all proceedings. The mayor shall be recognized as the head of the city government by the governor for purposes of military law, but shall have no regular administrative duties. The board shall designate one city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the board membership and the provisions of Section 27 of this Act shall apply.

(4) Regular meetings of the board shall be held at least once each month at such times and places as are fixed by ordinance. Special meetings of the board may be called by the mayor or upon written request of two (2) city commissioners. In the call, the mayor or commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of board members and for compliance with KRS Chapter 61. At a special meeting no business shall be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 29 of this Act and the officer presiding at the meeting.

(5) The board shall by ordinance establish all appointive offices and the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The board shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(6) The board may require any city officer or employe to prepare and submit to it sworn statements regarding his performance of his official duties and may otherwise inquire into the conduct of duties of any department, office or agency of the city.

(7) The board shall in accordance with Section 31 of this Act create the office of city manager and set qualifications for the office, which shall include but not be limited to professional training or administrative qualifications with special reference to actual experience in or knowledge of accepted practice regarding duties of the office, and list duties and responsibilities of the office which shall include, but not be limited to:

(a) Appointing and when necessary for the good of the service, removing all subordinate officers and employes of the city except those employes whose tenure and terms of employment are protected by statute, ordinance or contract;

(b) Preparing the budget and submitting it to the board and being responsible for its administration after adoption;

(c) Preparing and submitting to the board as of the end of each fiscal year a complete report on the finances and administrative activities of the city for the preceding year;

(d) Keeping the board advised of the financial condition and future needs of the city and making recommendations as he deems desirable;

(e) Maintaining liaison with related units of local government respecting interlocal contracting and joint activities;

(f) Supervising all departments of city government and the conduct of all city officers and employes under his jurisdiction and requiring each department to make reports to him required by ordinance or as he deems desirable; and

(g) Performing other duties required of city executive authorities by statute or required of him by the board not inconsistent with this section.

(8) The board shall appoint a city manager by a majority vote of all its members. The city manager shall be appointed for an indefinite term and the board may remove him only by a majority vote of all its members. At least thirty (30) days before such removal shall become effective the board shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The city manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the board by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the board may suspend the city manager from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

(9) The city manager shall be the chief administrative officer and head of the executive branch of the city government. He shall enforce the city manager plan, city ordinances and all applicable statutes. Subject to approval of the board, the city manager shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Any delegation of the city manager's duties or responsibilities to subordinate officers and employes shall be made by administrative order. Administrative orders shall be sequentially numbered by years and kept in a permanent file. All bonds, notes, contracts and written obligations of the city according to ordinance or resolution shall be made and executed by the city manager on behalf of the city.

(10) Neither the board nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or in any way take part in the appointment or removal of officers and employes in the administrative service of the city. Except for the purpose of inquiry and investigation, the board and its members shall deal with the administrative service solely through the city manager and shall not give orders to any subordinates of the city manager, either publicly or privately.

(11) The board of any city declared to be under the city manager plan by Section 25 of this Act may, not later than six (6) months from the effective date of this Act, by ordinance choose to be organized and governed under the commission plan provided in Section 37 of this Act. The ordinance shall set an effective date for the change to the commission plan which shall not be later than one (1) year from the effective date of this Act. All ordinances and resolutions in force at the time of the change and not in conflict with Section 37 of this Act shall remain in force until changed.

SECTION 39. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Any city may become organized and governed under either the mayor-council plan, the commission plan or the city manager plan only by popular vote in accordance with Section 35 of this Act, except as provided in subsection (11) of Section 38 of this Act.

(2) If a majority of the votes cast are in favor of changing the organization and government of the city, the corporate entity of the city shall remain the same as it was before the change. All laws applicable to and governing cities and not inconsistent with the newly adopted plan shall continue to apply to and govern each city that so changes its plan. All city ordinances and resolutions in force in any such city and not inconsistent with the newly adopted plan shall continue in force until amended or repealed in the manner provided in the new plan.

(3) Upon the expiration of the terms of the existing legislative body members, or if terms are staggered, when the terms of a sufficient number of members have expired to achieve a correct number of members remaining, or upon election of a sufficient number of additional members at the next regular election to achieve a correct number of members, the city shall be organized and governed under the newly adopted plan as provided in this chapter and shall take action necessary to be in compliance with this chapter. In no event shall a city not be in compliance two (2) years after the adoption of the new plan by the voters.

(4) Failure on the part of any ministerial officer to perform the duties required of him by this section shall not prevent the change of the plan of organization and government of the city.

(5) No city which changes the plan under which it is organized and governed under this section shall again change the plan sooner than five (5) years from the effective date of the last change.

SECTION 40. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) In any city which has required nonpartisan city elections under the provisions of Section 28 of this Act, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, at least fifty-five (55) days before the primary election, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city, in the following form:

"We the undersigned, qualified voters of the City of-------request that the name of-------be placed on the city ballot as that of an applicant for nomination for the office of-------at the primary election to be held in our city on the first Tuesday after the fourth Monday in May,----. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Number	Street
------------	------------------	--------------
------------	------------------	--------------
------------	------------------	--------------"

The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear upon the primary ballots, authenticated with a facsimile of his signature.

(5) Subsection (4) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination shall be printed on the city ballot. Above names of applicants for nomination for all city offices shall be printed the words "vote for one", except above names of applicants for nominations for legislative body member in cities nominating legislative body members at-large shall be printed the words "vote for-----(the number of legislative body members to be elected)." City ballots shall contain no party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation.

(7) After city ballots are printed, the county clerk shall cause to be delivered at each polling place a number of city ballots equal to twice the number of votes cast in the polling precinct at the last preceding regular election. Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Ballots shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated.

(10) At the regular election following a nonpartisan primary election, names of nominees shall be placed upon ballots like those used at the nonpartisan primary election, except that regular election ballots shall contain only names of successful nominees.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in printing and distributing ballots, issuing them to voters, receiving and depositing them in ballot boxes, counting and preserving them, and in all other particulars, shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

SECTION 41. KRS CHAPTER 89A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative agency" or "agency" means a separate body established by a city legislative body for exercise of any power or function. It does not include any administrative body controlled by other state law;

(2) "Contested case" means a proceeding, including, but not limited to, rate-making and policy-making, in which the legal rights, duties, or privileges of a person are adversely affected;

(3) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party;

(4) "Person" means bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(5) "Rule" means each agency statement of general applicability that implements or interprets law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the

amendment or repeal of a prior rule, but does not include statements concerning only the internal management of an agency which do not affect private rights or procedures available to the public; and,

(6) "Decision" or "order" means an adjudicative disposition, whether affirmative, negative, injunctive, or declaratory in form, of any agency in any matter other than rule-making.

SECTION 42. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) If a city legislative body wishes to establish an administrative agency, it shall do so by ordinance which indicates the title, powers and duties of the agency; the method of appointment and removal, filling vacancies, qualifications, compensation, and terms of members; and other appropriate matters relating to the agency.

(2) An administrative agency may be designated as an agency, authority, board, commission, or by another title, so long as the title is appropriate to its function. If an agency is advisory only, such a designation shall be included in its title.

(3) If a city legislative body wishes to exercise a power or function as a city office pursuant to Section 31 of this Act in lieu of establishing an administrative agency and such power or function affects the legal rights, duties, or privileges of any person adversely, then contested cases shall be subject to appeal to the district court in a de novo proceeding, unless the city legislative body has adopted by reference the provisions of Sections 47 to 52 of this Act for use by that office.

SECTION 43. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Unless otherwise restricted in the ordinance establishing an agency, it may in furtherance of its purposes:

(1) Accept real or personal property, including money, from any public or private source, including the city legislative body;

(2) Establish and collect charges for the use of facilities it controls; and,

(3) Issue revenue bonds and make special assessments pursuant to law.

SECTION 44. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Each agency may maintain accounts separate from other city funds. All moneys belonging to the agency shall be used exclusively for carrying out the purposes of the agency and the purposes of the agency shall be subject to control of the city legislative body and the executive authority.

(2) Each administrative agency shall meet budgeting, accounting and auditing requirements applicable to cities.

(3) Each administrative agency shall keep a complete and accurate record of its proceedings.

SECTION 45. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the close of each fiscal year, each administrative agency shall make a full report to the city legislative body and the executive authority. The report shall include a financial statement and the general scope of operations of the agency during the preceding fiscal year.

(2) The city legislative body or executive authority may cause the accounts and records of an administrative agency to be examined at any time.

SECTION 46. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) In addition to other rule-making requirements imposed by ordinance, each administrative agency shall:

(a) Promulgate as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;

(b) Promulgate rules of practice setting forth the nature and requirements of all formal and informal procedures available including a description of all forms and instructions used by the agency;

(c) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions; and,

(d) Make available for public inspection all final decisions, orders, and opinions.

(2) No agency rule is valid or effective against any person or party nor may it be invoked by the agency for any purpose until it has been approved by the city legislative body and has been made available for public inspection as herein required.

SECTION 47. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice as provided in subsection (2). An agency may issue subpoenas and administer oaths. The provisions of the Kentucky civil rules of procedure shall apply insofar as possible to agency subpoenas, except that an agency shall have no contempt power, and disobedience of a subpoena or a refusal to be sworn or to answer as a witness may be punished as a contempt on application to the district court of the county by the agency or any party.

(2) The notice shall include:
(a) A statement of the time, place, and nature of the hearing;
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
(c) A reference to the particular sections of the statutes, ordinances and rules involved; and
(d) A short and plain statement of the material facts asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the matters being contested. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(4) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(5) The record in a contested case shall include:
(a) All pleadings, motions, and intermediate rulings;
(b) Documentary and physical evidence received or considered;
(c) A statement of matters officially noticed;
(d) Questions and offers of proof, objections, and rulings thereon;
(e) Proposed findings and exceptions;
(f) Any decision, opinion, or report by the officer presiding at the hearing; and,
(g) All staff memoranda or data submitted to the members of the agency in connection with their consideration of the case.

(6) Oral proceedings or any part thereof shall be transcribed on request of any party and payment of costs.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

SECTION 48. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(3) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(4) Notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

SECTION 49. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

When in a contested case a majority of the members of the agency who are to render the decision have not heard the case or reviewed the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has reviewed the record. The parties by written stipulation may waive compliance with this section.

SECTION 50. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

A decision or order adverse to a party in a contested case shall be in writing or stated in the record. A decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each material proposed finding. Parties shall be served either personally or by mail with notice of any decision or order. Upon request a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The date of service of notice of the decision shall be noted in the record and shall be the date of entry for the purpose of fixing the running of the time for appeal.

SECTION 51. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Unless required for the disposition of ex parte matters authorized by law, members or employes of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. Any such communication shall be noted in the record. An agency member may communicate with other members of the agency, and may have the aid and advice of one or more personal assistants.

SECTION 52. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) A party who has exhausted all administrative remedies available and who is aggrieved by a final decision in a contested case is entitled to judicial review. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final decision would not provide an adequate remedy.

(2) Proceedings for review are instituted by filing a petition in the circuit court of the county in which the city is located within thirty (30) days after entry of the decision as defined in Section 50 of this Act. The agency and all adverse parties shall be made parties defendant and copies of the petition shall be served on them. Other parties may intervene in accordance with the rules of civil procedure.

(3) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(4) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decisions by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(7) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) In violation of law;
(b) In excess of the authority of the agency;
(c) Made upon unlawful procedure;
(d) Affected by other error of law;
(e) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

SECTION 53. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

The city legislative body by ordinance may reduce or increase an administrative agency's powers and duties, or may transfer powers and duties from one agency to another. The city legislative body may discontinue an administrative agency by ordinance enacted not sooner than thirty (30) days following a public hearing on the proposal, notice of the time, place and purpose of which has been published pursuant to KRS Chapter 424.

SECTION 54. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Administrative agencies subject to the provisions of this chapter but established under pre-existing law shall continue with the same powers and duties without the passage of an ordinance pursuant to Section 42 of this Act, until altered or discontinued as provided in Section 53 of this Act, except that such agencies shall promulgate or repromulgate rules in accordance with the provisions of Section 46 of this Act within two (2) years of the effective date of this Act. On that date all such agency rules which have not been repromulgated shall become ineffective.

SECTION 55. KRS CHAPTER 91A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Act in an official capacity" means to participate directly or indirectly through decision, approval, disapproval, recommendation, influencing the content of any specification or purchasing standard, rendering of advice, investigation, auditing or other involvement in any purchase, proceeding, application, ruling, claim, controversy or other matter of public business.

(2) "Budget" means a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.

(3) "Conflict of interest" means an act of a city officer or employe in an official capacity in a matter in which there is a financial interest possessed by:

(a) Himself or a member of his immediate family;

(b) A business other than a public agency in which he or a member of his immediate family serves as an officer, director, trustee, partner, stockholder, or employe; or

(c) Any other person or business with whom he or a member of his immediate family is negotiating or has an arrangement concerning prospective employment.

(4) "Debt service" means the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

(5) "Encumbrances" mean obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

(6) "Fiscal year" means the accounting period for the administration of fiscal operations.

(7) "Immediate family" means spouse, children, grandchildren, parents, grandparents, brothers, sisters, and their spouses.

(8) "Purchase" means the procurement of materials, supplies, equipment, goods and services except for professional services or insurance.

(9) "Sinking fund" means a fund held for the retirement of bonds.

SECTION 56. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall maintain an accounting system for the list of accounts provided in subsection (3) of this section designed to show:

(a) The amount of estimated revenue from each source as specified in the budget ordinance, the amount of revenue collected and the uncollected balance; and

(b) The amount appropriated for each program area in the budget ordinance, the amount of expenditures charged against each appropriation, the encumbrances outstanding against each appropriation and the unencumbered balance to the credit of each appropriation.

(2) The accounting system shall be so designed that the true financial condition of the city can be readily ascertained and it shall be maintained according to generally accepted governmental accounting principles in such a way that all receipts and all expenditures of the city are properly accounted for and that the following objects of expenditures may be readily developed for reporting and auditing purposes:

(a) Personnel costs;

(b) Current operating expenses; and

(c) Capital outlay.

(3) The following list of accounts shall be used in design and maintenance of city accounting systems:

RECEIPTS

Taxes and special assessments
Licenses and permits
Fines, forfeits and other penalties
Rental and interest income
Charges for current services
Sales and compensation for loss of fixed assets
Federal grants and receipts from other agencies
Bond proceeds
Transfers from other funds

EXPENDITURES

General government
Public safety
Streets and public works
Sanitation and waste removal
Health
Welfare
Culture and recreation
Debt service
Reserve for contingencies

SECTION 57. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall operate under an annual budget ordinance adopted and administered in accordance with this section. Notwithstanding any other provision of law, after the effective date of this Act, no city shall expend any funds, regardless of source (including funds derived from bond proceeds, federal, state or private grants or loans, or special assessments), except in accordance with a budget ordinance adopted pursuant to this section.

(2) If in any fiscal year subsequent to a fiscal year in which a city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year shall have full force and effect as if readopted.

(3) The budget ordinance of a city shall cover but one (1) fiscal year, except that any city required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky constitution may utilize for transition purposes a fiscal year of any length not to exceed eighteen (18) months. Any such adjustment shall be completed not later than two (2) years from the effective date of this Act.

(4) Preparation of the budget proposal shall be the responsibility of the executive authority of the city.

(5) The budget proposal shall be prepared in such form and detail as is prescribed by ordinance. The budget proposal shall show estimates of at least the following:

(a) Receipts from all sources which shall be shown under the receipt accounts listed in subsection (3) of Section 56 of this Act.

(b) Expenditures for all programs which shall be shown under the expenditure accounts listed in subsection (3) of Section 56 of this Act.

(6) The budget proposal together with a budget message shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(7) The legislative body shall adopt a budget ordinance making appropriations for the fiscal year in such sums as the legislative body finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may be in any form that the legislative body finds most efficient in enabling it to make the necessary fiscal policy decisions, except it shall be organized so that it will show appropriations and revenues by the accounts listed in subsection (3) of Section 56 of this Act.

(8) The full amount estimated to be required for debt service during the budget year shall be appropriated.

(9) The city legislative body may amend the budget ordinance at any time after the ordinance's adoption, so long as, the amended ordinance continues to satisfy the requirements of this section. A budget amendment shall be required for any of the following purposes:

(a) To permit the appropriation and expenditure of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget ordinance.

(b) To permit the appropriation and expenditure of amounts anticipated to be available from any source and which had not been anticipated in the budget ordinance.

(c) To permit transfers between expenditure accounts listed in subsection (3) of Section 56 of this Act.

(10) Administration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city.

SECTION 58. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund and account of the city to be audited by the auditor of public accounts or a certified public accountant or other qualified public accountant. The auditor shall be selected by and shall report directly to the city legislative body.

(2) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The audit cover each and every fund and account of the city and be conducted according to generally accepted governmental auditing standards;

(b) The auditor make sufficient tests to determine whether receipts have been collected, accounted for and disbursed in compliance with applicable laws and regulations governing the collection and expenditure of public funds and whether the city is complying with all other legal requirements relating to the management of public funds;

(c) The auditor prepare a typewritten or printed report embodying financial statements and his opinion and statements relating to them;

(d) The audit report reflect for each receipt account, the total receipts by source and for each expenditure account, the total expenditures by object of expenditure;

(e) The auditor express an overall opinion as to whether the statement of receipts and expenditures presents fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(f) The audit report indicate any matters of noncompliance with law or regulation known to the auditor; and

(g) The auditor present the completed audit to the city legislative body at a regular or special meeting and explain his findings to those present.

(3) Upon receipt of an annual audit, the city shall forward two (2) copies of the audit report to the department for local government.

(4) Upon completion of an annual audit, the city shall publish a summary of the audit in accordance with KRS Chapter 424.

(5) A copy of an annual audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements.

SECTION 59. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The executive authority shall designate as the city's official depositories one (1) or more banks or trust companies within the Commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance or surety bonds.

(2) All receipts from any source of city money or money for which the city is responsible shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the executive authority which shall state the name of the person to whom funds are payable, the purpose of the payment and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

SECTION 60. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Except as limited by statute, cities may impose and collect all taxes allowed by Section 181 of the Kentucky constitution. The power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability if required, and to impose penalties and interest for failure to pay taxes when lawfully due. The power to impose a tax also includes the power to provide for its administration.

(2) Taxes may be imposed by cities only by ordinance. The purpose for which each tax is imposed shall be specified in the ordinance and the revenue generated shall be expended for no other purpose than that for which the tax is imposed. Failure to specify the purpose of a tax shall render the ordinance invalid.

(3) Each city shall impose annually a separate tax levy sufficient to provide for the interest and amortization of each of its general obligation bond issues, and the money so provided shall be accounted for separately and not used for any other purpose.

(4) Cities may provide by ordinance for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing district on that class of property which includes the surface of land. Those differences shall relate directly to differences between nonrevenue-producing governmental services and benefits giving the land urban character which are available in one (1) or several areas of a taxing district in contrast to other areas of the same taxing district in which those services and benefits are not available.

(5) Any city imposing a license fee or tax upon any insurance company for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of the ordinance which imposes the license fee or tax. Any license fee or tax imposed by a city upon any insurance company shall be based upon a percentage of the premiums received by the company within the preceding tax year for insurance on risks located within the corporate limits of the city, less all premiums returned to policyholders. Such license fee or tax shall be due at the beginning of the tax year.

(6) Nothing in this section shall be construed to repeal, amend or otherwise affect any statute specifying or limiting tax or fee rates, exempting property from local taxation, fixing a special rate on proper classification or imposing a state tax which is declared in lieu of all local taxation.

SECTION 61. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The imposition by a city, upon retailers in the city, of a license tax for the privilege of making retail sales within the city, measured in whole or in part by the gross receipts derived from retail sales shall, to the extent it is so measured, be subject to the following conditions:

(a) The rate of the tax shall not exceed a sum equal to two percent (2%) of the gross receipts derived from retail sales within the city; and

(b) The administration and collection of the tax shall be by the department of revenue and all definitions and other provisions of KRS Chapter 139 shall apply in the same manner and to the same extent as to the state tax on retail sales.

(2) The ordinance imposing a city license tax measured by gross receipts from retail sales and amendments thereto shall be approved as to form by the department of revenue prior to enactment and shall not become effective until one hundred twenty (120) days after enactment and being filed with the department of revenue. Approval as to form shall not be unreasonably withheld. A city levying a license tax measured by gross receipts from retail sales shall promptly notify the department of revenue of all final annexation or area reduction proceedings identifying affected taxpayers and the department of revenue shall promptly commence or desist from administering and collecting the tax in the affected area.

(3) The department of revenue shall administer a city tax in the same manner and to the same extent as it administers the state tax measured by retail sales in the city. Expenses of administration shall be borne by the department, except expenses incurred incident to testing a city's jurisdiction to levy a license tax measured by gross receipts from retail sales shall be borne by the city. Revenues received by the department on behalf of a city shall be paid to the city on or before the twentieth (20th) day of the month next succeeding that in which they are received by the department.

SECTION 62. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1)(a) Any city may by ordinance elect to have all city ad valorem taxes including delinquent taxes collected by the sheriff of the county. The election shall be effective only if a copy of the ordinance is delivered to the sheriff as soon as practicable, and a copy of the ordinance levying the taxes to be collected is delivered to the county clerk not later than June 30 of the year of the levy.

(b) The county clerk shall place city ad valorem taxes due on the tax bills of owners of property in the city prepared in accordance with KRS 133.220 and 133.230.

(c) The sheriff shall collect all city ad valorem taxes including delinquent taxes in the same manner as county ad valorem taxes as provided in KRS Chapter 134 and the sheriff shall be compensated in an amount calculated to defray additional costs to the sheriff for the services performed, but such amount shall not exceed the rates provided for tax collection by KRS Chapter 134. All procedures provided by KRS Chapter 134 concerning collection of delinquent taxes by counties shall be applicable.

(2) If a city does not elect to have city ad valorem taxes collected by the sheriff as provided in subsection (1) of this section, city ad valorem taxes shall be due and payable at the same time as state and county ad valorem taxes are due and payable, unless otherwise prescribed by ordinance or statute. The city shall establish by ordinance procedures for the collection of ad valorem taxes which shall specify the manner of billing, the place for payment, discounts, if any, for early payment, penalties and interest for late payment, and other necessary procedures related to ad valorem tax administration.

(3) In cities proceeding under subsection (2) of this section, ad valorem taxes upon real or personal property shall be delinquent if not paid by the date set by ordinance or statute. A lien superior to all other liens, except a lien for state taxes, whether such liens were acquired before or after the maturity of the taxes referred to in this section, shall exist in favor of the city from the date the taxes are due, for the amount of the taxes, interest and penalties, upon all the real and personal property of the delinquent taxpayer. The city may enforce the lien by action in the name of the city in the circuit court. In that action it may also obtain a personal judgment against the delinquent taxpayer for the tax, penalties, interest and costs of the suit.

SECTION 63. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each property valuation administrator shall, as soon as completed, deliver to each city in the county a copy of that portion of the assessment records which represents the assessment of property within the city.

(2) The assessment dates for the city shall conform to the corresponding dates for the county.

(3) Each city shall use the annual county assessment for property located within the city as the basis for city ad valorem tax levies, unless the city legislative body provides for the assessment of such property by the city through the adoption of an ordinance which shall:

(a) Assign responsibility for property assessments to an office of the city created under the provisions of Section 31 of this Act.

(b) Provide for a board of equalization and such procedures as are necessary to meet constitutional requirements for due process in any grievance or remedy sought by city taxpayers.

(c) Provide assessment procedures in such detail as necessary to fully safeguard any city ad valorem tax revenues, meet all constitutional requirements for property valuation, due process and equal protection under the law and to insure orderly administration of the assessment process.

(4) If a city elects to provide by ordinance for the assessment of property for ad valorem tax purposes by the city, appeals from the decisions of the city board of equalization shall be taken in the same manner as appeals from decisions of county boards of equalization.

SECTION 64. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall establish by ordinance procedures for purchases which shall enable verification and auditing of purchasing records.

(2) All purchases involving the expenditure of more than five thousand dollars ($5,000) shall be advertised for bid pursuant to KRS Chapter 424. The advertisement shall include specifications of quantity and quality or where the specifications may be obtained. Bid openings shall be open to the public. Purchases shall be let to the lowest and best bid. All bids may be rejected and the purchase may be readvertised.

SECTION 65. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Before a city officer or employe acts in an official capacity in a matter which embraces a conflict of interest, he shall disclose the interest in the manner prescribed in this section and declare himself unable to act on that matter.

(2) Legislative body members shall disclose any conflict of interest in meetings of the legislative body and such disclosure shall be made a part of the record of the meeting. A member disclosing a conflict of interest may be permitted to act in the matter in question by the affirmative vote of a majority of the remainder of the legislative body.

(3) Mayors and city managers shall disclose any conflict of interest to the legislative body and the disclosure shall be made a part of the permanent records of the city. The legislative body shall choose the officer they deem to be most qualified to act in the matter in question, except an officer disclosing a conflict of interest may be permitted to act in the matter in question by the affirmative vote of a majority of the legislative body.

(4) All other city officers and employes shall disclose any conflict of interest in writing to the executive authority of the city. The executive authority shall choose the officer or employe he deems to be most qualified to act in the matter in question or the executive authority may act itself, except an officer or employe disclosing a conflict of interest may be permitted to act in the matter in question if approved in writing by the executive authority.

(5) Violation of this section by an elected official shall be grounds for removal in accordance with Section 27 of this Act. Violation of this section by any other officer or employe shall be grounds for:

(a) Written warning or reprimand;
(b) Forfeiture of pay without suspension;
(c) Suspension without pay for specified periods of time;
(d) Reduction in grade or pay or both; or
(e) Termination of employment.

SECTION 66. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) If, in any year, the legislative body of a city deems it necessary to incur any indebtedness that cannot be paid without exceeding the income and revenue provided for the city for that year, it shall, by ordinance, order an election by the voters of the city to determine whether the indebtedness shall be incurred and bonds issued therefor. The ordinance shall specify the amount of the indebtedness proposed to be incurred, the purpose, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund. The ordinance shall be published pursuant to KRS Chapter 424. The city shall file a certified copy of the ordinance with the county clerk of the county in which the city is located, at least thirty (30) days prior to the next regular election, and thereupon the county clerk shall cause the question of incurring the indebtedness and issuing bonds to be printed upon the ballots to be used in the city precincts. The election shall be held under the general election laws.

(2) If two-thirds (2/3) of the votes cast on the question are in favor of incurring the indebtedness, the city legislative body may incur the indebtedness and issue bonds of the city, and shall by ordinance provide for the mode of creating and paying the indebtedness. The ordinance shall provide for the levy and collection of an annual tax upon all taxable property within the city, sufficient to pay the interest on the indebtedness and create a sinking fund for the payment of the principal within a period of not more than forty (40) years from the time of incurring the indebtedness. The annual tax shall be levied and collected at the same time as other taxes, and shall be in addition to all other taxes. The proceeds of the tax, when collected, shall be kept in the city treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of the indebtedness.

SECTION 67. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) A city may issue bonds pursuant to the provisions of Sections 67 to 79 of this Act to finance any undertaking in furtherance of its purposes.

(2) A city may borrow money and issue revenue bonds under Sections 67 to 79 of this Act pursuant to an ordinance, which shall set forth the proposed undertaking, the amount of the revenue bonds to be issued and the maximum rate of interest. In every instance the ordinance shall provide that the undertaking is being financed under the provisions of Sections 67 to 79 of this Act.

SECTION 68. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The bonds shall be executed in such manner, and be payable at such time not exceeding forty (40) years from date thereof and at such place or places as the city determines.

(2) The bonds may provide that they or any of them may be called for redemption prior to maturity, under conditions fixed by the city before issuing the bonds.

(3) Any city is authorized to rent or lease any portion of the undertaking to or contract concerning it with any person, partnership, association or corporation either public or private, profit or nonprofit. Notwithstanding any other laws, any such renting, leasing or contracting may be accomplished without the necessity of awarding the lease or contract by advertisement or competitive bidding, provided the city first makes a legislative determination that it is in the best interest of the city to enter into the lease or contract without the necessity for advertisement or competitive bidding; and the lease may provide that the lessee is permitted or obligated to sublease the undertaking or any portion thereof for the purpose of accomplishing the creation, improvement, revitalization, renewal or modernization of a central business or shopping community.

(4) A city is hereby empowered to accept donations or gifts to the undertaking from any source and to accept appropriations and grants to the public project from the federal government or any agency thereof and appropriations from the state or any county, city or other political subdivision and, at the option of the city to pledge such donations, gifts or appropriations to the payment of revenue bonds issued to finance the cost of the undertaking.

SECTION 69. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Bonds issued pursuant to Sections 67 to 79 of this Act shall be negotiable and shall not be subject to taxation. If any officer whose signature or countersignature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. The bonds shall be sold in such a manner and upon such terms as the city deems best, or any contract for the acquisition of an undertaking may provide that payment shall be made in such bonds. The bonds shall be payable solely from the revenue derived from the undertaking or other revenue as provided in Section 70 of this Act and shall not constitute an indebtedness of the city within the meaning of the constitution. It shall be plainly stated on the face of each bond that it has been issued under the provisions of Sections 67 to 79 of this Act and that it does not constitute an indebtedness of the city within the meaning of the constitution.

SECTION 70. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Prior to the issuance of the bonds, provision shall be made by ordinance for the creation of a separate and special fund or account of the city, identified as constituting the source of payment of principal and interest, and as provided by Section 73 of this Act, costs of maintenance, operation and depreciation. The fund shall by covenant be continued so long as any of the bonds remain outstanding and unpaid. By the provisions of the ordinance the city may pledge and covenant that it will cause to be set aside and deposited in the separate and special fund, moneys received from any or all of the following sources, subject to the following conditions and limitations:

(1) If the undertaking will produce direct revenues in the form of rents, royalties, fees, assessments, rates or charges of any character, including any payments to the city in lieu of property taxes, but not property taxes themselves, all or any portion therof may be so pledged; but it shall not be a condition or requirement in the issuance of revenue bonds that such revenues be anticipated at all, nor that they be sufficient in themselves to provide for the payment of principal and interest when scheduled to become due.

(2) If the undertaking in the opinion of the legislative body of the city will cause the project to produce no direct revenues, or to produce direct revenues insufficient to give acceptable assurance of payment of principal and interest when scheduled to become due, then:

(a) The city may pledge and covenant that it will cause to be deposited in the special fund any revenues under control of the legislative body which may be derived from any municipally owned and operated water, electric, gas, sewer or other utility system, or from any combination thereof, to the extent such revenues at the time may be or become surplus to the necessary costs of operating and maintaining such utility system or systems and surplus to any existing contractual commitments of the city to the holder or holders of outstanding revenue bonds payable from such revenues;

(b) If the legislative body of the city should make a legislative finding of fact, as recited in the body of the ordinance authorizing issuance of the bonds, that the undertaking is of such nature as to provide increased revenues to the city by reason of increased employment and resulting increased receipts from occupational license fees or occupational license taxes, then the city may pledge and covenant that it will cause to be deposited in the separate and special fund the receipts which may be definitely identified as accruing from such occupational license fees or taxes by reason of employment in or directly related to the undertaking, less a proportionate part of the costs of collecting such fees or taxes; and

(c) The city may pledge and covenant that it will cause to be deposited in the special fund any other specifically identified revenue of the city to the extent that the constitution permits.

(3) In the case of revenues originating from any of the sources and in the respective manners set forth in paragraphs (a), (b), and (c) of subsection (2) of this section, the city may covenant and pledge that such revenues, or a stipulated amount or portion thereof, will be set aside and deposited in the special fund when, as and if received; that as to any city-owned utility system, the revenues of which are pledged, the rate or schedule of rates prevailing at the time revenue bonds are issued will not be reduced so long as any of the bonds remain outstanding and unpaid, and in the case of a pledge of revenues of a city-owned utility system or combination of utility systems, that the city will not sell or otherwise dispose thereof without making provision for payment of the revenue bonds from the proceeds of such sale or other disposition, due regard being given to the priority of any previously issued bonds which are payable from such revenues.

SECTION 71. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

All money received from the bonds shall be applied solely for the acquisition, construction, maintenance or improvement of the undertaking and the necessary expense of preparing, printing and selling the bonds, or to advance the payment of the interest on the bonds during the first three (3) years following the date of the bonds, or to provide an initial debt service reserve; and the proceeds of the bonds may be supplemented by contributions from the issuing city or from any other source toward the cost of construction of the undertaking or toward the creation of a debt service reserve for the protection and benefit of the bondholders, or for any other purpose related to the financing of the acquisition and construction of the undertaking, and it may be further provided that any contribution made for the purpose of assisting in the initial establishment of a debt service reserve for the benefit and protection of the bondholders may be returned or reimbursed to the contributor thereof whenever other equivalent funds have been provided from the revenues of the undertaking or from any other source toward the establishment of the debt service reserve.

SECTION 72. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) If there is any default in the payment of principal or interest of any bond, any court having jurisdiction of the action may appoint a receiver to administer the undertaking with power to charge and collect rents, royalties, fees, rates and charges and to receive any other available revenue sufficient to provide for the payment of any bonds or obligations outstanding against the undertaking and for the payment of operating expenses, and to apply the income and revenue in conformity with Sections 67 to 79 of this Act and the ordinance referred to in Section 67 of this Act.

(2) Notwithstanding any of the other provisions of Sections 67 to 79 of this Act, it may be provided in the proceedings authorizing bonds issued for the purpose of financing an undertaking that the city in connection with the issuance of its bonds, execute a mortgage deed of trust in favor of a trustee on property acquired or constructed through the application of the proceeds of the bonds, providing that in the event of default by the city in the payment of interest or principal of its bonds or in the event of default of any other covenant contained in such mortgage deed of trust the trustee, upon behalf of the bondholders, may institute and carry through foreclosure proceedings, with the property secured by the mortgage deed of trust put up for sale on foreclosure proceedings, the proceeds of the sale to be used for the benefit of the bondholders. In connection with such plan of financing, such provisions may be inserted in the bonds themselves and in the mortgage deed of trust.

SECTION 73. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The ordinance prescribed by Section 70 of this Act shall definitely fix and determine the amount of revenue necessary to be set apart and applied to the payment of principal and interest of the bonds, and the proportion of the balance of the income and revenue to be set aside as a proper and adequate depreciation account, and the remaining proportion of such balance shall be set aside for the reasonable and proper operation and maintenance of the undertaking. The rents, royalties, fees, rates and charges for the services or sales of property of the undertaking shall be fixed and revised from time to time so as to be sufficient to provide for payment of interest upon all bonds, to amortize the principal, and to provide for operation, maintenance and depreciation.

SECTION 74. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

If a surplus is accumulated in the operating and maintenance accounts equal to the cost of maintaining and operating the undertaking during the remainder of the calendar, operating or fiscal year, and during the succeeding like year, any excess over such amount may be transferred at any time by the city to the depreciation account to be used for improvements, extensions or additions to the undertaking.

SECTION 75. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The funds accumulating to the depreciation account shall be expended in balancing depreciation in the undertaking or in making new constructions, extensions or additions thereto. Any such accumulations may be invested as the governmental agency may designate, and if invested the income from such investment shall be carried into the depreciation account.

SECTION 76. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The city may issue new bonds to provide funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by Sections 67 to 79 of this Act. The new bonds shall be secured to the same extent and shall have the same source of payment as the bonds refunded.

SECTION 77. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

If the city finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued in the same manner.

SECTION 78. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Any city acquiring any undertaking pursuant to the provisions of Sections 67 to 79 of this Act may at the time of issuing the bonds for the acquisition, provide for additional bonds for extensions and permanent improvements to be placed in escrow and to be negotiated from time to time as proceeds for that purpose may be necessary. Bonds placed in escrow shall, when negotiated, have equal standing with bonds of the same issue.

SECTION 79. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Any city may use, for the purpose of acquiring, constructing, maintaining, extending or improving an undertaking, or for the payment of interest or principal on any revenue bonds issued by the city pursuant to Sections 67 to 79 of this Act, any funds or tax revenues available for general purposes of the city and not required by law to be devoted to some other purpose.

SECTION 80. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Sections 66 to 79 of this Act shall become applicable upon the effective date of this Act, except that if a city has begun negotiations and other procedures for issuance of bonds under statutes repealed by this Act, the issuance of the bonds shall be governed by those statutes until the retirement of the bonds.

SECTION 81. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

A city may not finance any improvement through special assessments except in accordance with Sections 81 to 90 of this Act, or other statutory authority.

SECTION 82. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in Sections 81 to 90 of this Act, unless the context otherwise requires:

(1) "Improvement" means construction of any facility for public use or services or any addition thereto, which is of special benefit to specific properties in the area served by such facility;

(2) "Property" means any real property benefited by an improvement;

(3) "Special assessment" or "assessment" means a special charge fixed on property to finance an improvement in whole or in part;

(4) "Fair basis" means assessed value basis, front foot basis, square foot basis or benefits received basis;

(5) "Assessed value basis" means the apportionment of cost of an improvement according to the ratio the assessed value of individual parcels of property bears to the total assessed value of all such properties;

(6) "Front foot basis" means the apportionment of cost of an improvement according to the ratio the front footage on the improvement of individual parcels of property bears to such front footage of all such properties;

(7) "Square foot basis" means the apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property;

(8) "Benefits received basis" means the apportionment of cost of an improvement according to equitable determination by the city legislative body of the special benefit received by property from the improvement, including assessed value basis, front foot basis, and square foot basis, or any combination thereof, and may include consideration of assessed value of land only, graduation for different classes of property based on nature and extent of special benefits received, and other factors affecting benefits received; and

(9) "Cost" means all costs related to an improvement, including planning, design, property or easement acquisition, and construction costs, fiscal and legal fees, financing costs, and publication expenses.

SECTION 83. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) A city may finance the cost of an improvement in whole or part by special assessments made as provided in Sections 81 to 90 of this Act.

(2) Cost of an improvement shall be apportioned equitably on a fair basis.

(3) The city may provide for lump sum or installment payment of assessments or for bond or other long-term financing, and, for any improvement, may afford property owners the option as to method of payment or financing.

SECTION 84. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Property owned by the state, a local unit of government or any educational, religious, or charitable organization shall be assessed to the extent it is found to be benefited as other property is benefited.

SECTION 85. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Before undertaking any improvement pursuant to Sections 81 to 90 of this Act, the city shall prepare a comprehensive report setting out:

(1) The nature of the improvement;

(2) The scope and the extent of the improvement, including the boundaries or other description of the area to be assessed;

(3) The preliminary estimated cost of the improvement;

(4) The fair basis of assessment proposed;

(5) If financing of assessments is provided, the proposed method, including the proposed years to maturity of any bonds to be issued in connection with the improvement; and

(6) Such other information as may further explain material aspects of the improvement, assessments, or financing.

SECTION 86. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

After preparation of the report required by Section 85 of this Act, the city shall hold at least one (1) public hearing on the proposed improvement at which all interested persons shall be heard. Notice of the hearing shall be published pursuant to KRS Chapter 424, or mailed to each affected property owner, and shall include:

(1) The nature of the improvement;

(2) Description of area of the improvement;

(3) Statement that the city proposes to finance the improvement in whole or in part by special assessment of property and the method to be used;

(4) Time and place the report may be examined; and

(5) Time and place of the hearing.

SECTION 87. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Within ninety (90) days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed shall adopt a resolution so stating and containing all necessary terms, including the items referred to in Section 85 of this Act and description of all properties. Promptly upon passage of such resolution the city shall mail by certified mail to each affected property owner a notice of determination to proceed with the project, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio the cost to each property owner bears to the total cost of the entire project.

SECTION 88. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of the mailing of the notice provided for in Section 86 of this Act, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his property in the project, or the amount of his assessment. If the action contests the undertaking of the improvement by the special assessment method or the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

(2) The city may proceed with the improvement with respect to any properties whose owners have not filed or joined in an action as provided in this section or who have contested only the amounts of their assessments, and the provisions of the resolution shall be final and binding with respect to such property owners except as to contested amounts of assessments. After the lapse of time as herein provided, all actions by owners of properties shall be forever barred.

SECTION 89. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) After the passage of time for the action provided for in Section 88 of this Act, or after favorable final judgment in any such action, whichever comes later, the city may proceed with the improvement or part thereof as was stayed by the action, including notice requiring payment of special assessment or installment thereon and bonds or other method proposed to finance the improvement. The first installment may be apportioned so that other payments will coincide with payment of ad valorem taxes.

(2) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, shall constitute a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien shall take precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body shall exempt any benefited property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

SECTION 90. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that Sections 85 to 89 of this Act shall apply if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other sections, if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance, if all property owners of the improvement consent.

Section 91. KRS 65.240 is amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by KRS 65.210 to 65.300 upon a public agency.

(2) Any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action *or for action by one on behalf of another* pursuant to the provisions of KRS 65.210 to 65.300. Appropriate action by ordinance, resolution or otherwise pursuant to law, of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

Section 92. KRS 65.255 is amended to read as follows;

If an agreement entered into under the authority of KRS 65.210 to 65.300 provides for cooperative action in the utilization of [peace] officers *or employes they* [, police department members], while in the performance of their duties under such an agreement outside *the jurisdiction of their public agency* [their own city or county], shall have the *same powers they possess in the jurisdiction of their public agency* [full power of arrest and all other powers they possess in their own city or county] and shall have the same immunities and privileges as if the duties were performed in their own *jurisdiction* [city or county].

SECTION 93. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The governing body of any public agency electing to enter into an agreement authorized by KRS 65.210 to 65.300 may abolish any office or position rendered unnecessary thereby or declare any such office or position vacant during the term of the contract. Any such office occupied by an official elected by the qualified voters of the public agency shall not be abolished or declared vacant before the end of the term of the incumbent.

SECTION 94. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 94 to 96 of this Act, unless the context otherwise requires:

(1) "Abandoned vehicle" means any vehicle or part thereof which is left upon public or private property

within a city or county under circumstances indicating a desertion, relinquishment, non-use or divestment so as to indicate a discarded vehicle.

(2) "Junked vehicle" means any vehicle or part thereof which does not have lawfully affixed thereto both an unexpired license plate and a current motor vehicle inspection certificate, which is in an inoperable condition.

(3) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(4) "Public authority" means a police department of a city or county or any other city or county authority so designated by the city legislative body or fiscal court.

SECTION 95. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No person shall permit an abandoned or junked vehicle to remain upon any public or private property for more than seven (7) days except that this section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or county.

(2) A violation of this section shall constitute a public nuisance.

(3) Any person who violates this section shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) or imprisoned not less than ten (10) nor more than thirty (30) days, or both.

SECTION 96. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any public authority may abate a nuisance under Section 94 of this Act by removing the vehicle or causing the vehicle to be removed by some person engaged in the business of storing or towing vehicles.

(2) No vehicle shall be removed from private property under subsection (1) until at least fourteen (14) days after notice of the intention to do so has been conspicuously affixed to the vehicle and delivered personally or mailed by certified mail to the owner of such property and the owner of the vehicle. The notice shall contain a description of the vehicle and its location, the intention of the public authority to remove it, the period of time after which it will be removed, and the name, address, and telephone number of the public authority. Such notice shall not be required as to any vehicle or property owner who cannot be located.

(3) The owner and any lienholder of record shall be notified by certified mail within ten (10) days after removal of a vehicle under subsection (1) that it may be redeemed by payment of the costs of removal and storage within thirty (30) days of the notice. If the owner cannot be located, such notice shall be published pursuant to KRS Chapter 424. Any person incurring costs for towing or storing the vehicle shall have a lien on the vehicle for such costs so long as it remains in his possession.

(4) If a removed vehicle is not redeemed after the procedure of subsection (3) has been followed, it may be sold through bids or by public auction after advertisement pursuant to KRS Chapter 424. Proceeds of sale shall be applied first to satisfy expenses of removal, storage, and sale, and next to satisfy liens. The balance shall be paid to the owner, and if the owner cannot be ascertained, to the general fund of the city or county which caused the removal of the vehicle.

(5) This section shall not limit the authority of any city or county to move, or take possession of, any vehicle which constitutes a safety hazard or which is unlawfully parked.

SECTION 97. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Sections 94 to 96 of this Act are permissive and not mandatory, and do not prohibit cities and counties from taking any constitutionally permissible action regarding vehicles.

Section 98. KRS 67A.060 is amended to read as follows:

(1) Urban-county governments may exercise the constitutional and statutory rights, powers, privileges, immunities and responsibilities of counties and cities of the highest class within the county:

(a) In effect on the date the urban-county government becomes effective;

(b) Which may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) Which may be authorized for or imposed upon urban counties.

(2) Rights, powers, privileges and immunities exercised by urban-county governments pursuant to subsection (1)(a) and (b) of this section shall continue to be authorized for urban-county governments notwithstanding repeal or amendment of the statutes upon which they are based unless expressly repealed or amended for urban-county governments.

(3) In addition to subsections (1) and (2) of this section and any statute which applies to urban-county governments by its terms, all rights, powers, privileges and responsibilities conferred by Sections 19, 20, 29, 35, 41-54, 55-90, 94-97, and 119-125 of this Act upon cities shall be applicable to urban-county governments.

SECTION 99. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the voters in any county containing a city of the first class may reorganize and consolidate any or all units of city and county government into an urban-county form of government. Such reorganization shall take place only after compliance with the procedures set forth in Sections 100 to 103 of this Act.

SECTION 100. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

In a county containing a city of the first class, upon a petition filed with the county clerk and signed by a number of registered voters equal to at least ten percent (10%) of the number of voters of the county voting in the immediate past general election for the office of county judge/executive requesting a referendum be held on the question of adopting the urban-county form of government, within forty-five (45) days a representative commission shall be appointed and formed composed of thirteen (13) citizens of the county which shall devise a comprehensive plan of urban-county government. The county judge/executive and the mayor of the first class city shall jointly appoint one (1) member from each senatorial district located wholly within the county and five (5) members at large, two (2) of whom shall be nominated by an organization substantially representing the remaining cities in the county. The commission shall elect its own chairman. The members appointed shall have a demonstrated interest in and knowledge of reorganization and consolidation of the units of city and county government. The plan shall include a description of the form, structure, functions, powers and officers and their duties of the proposed urban-county government; the procedures by which the original plan may be amended; and such other provisions as the commission shall determine; and shall be consistent with the provisions of the Kentucky constitution.

SECTION 101. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The fiscal court of the county and the legislative body of any city of the first class shall appropriate for the use of the commission sufficient funds, in equal amounts, to carry out the purpose of Sections 99 to 103 of this Act, upon such terms as the fiscal court and the legislative body may provide. The commission may hire staff and contract for necessary services.

SECTION 102. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The commission shall complete its work and develop a comprehensive plan of urban-county government no later than eighteen (18) months from the date of its formation. The plan shall be advertised at least ninety (90) days before the next general election, at which the voters of the county will be asked to approve or disapprove the adoption of the plan. The ballots shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting are in favor of adopting the plan, it shall be implemented. Provided, however, any incorporated area in which it appears a majority of those voting are against adopting the plan, shall be excluded from the urban-county government but the votes from that incorporated area shall be counted in the whole. Such excluded incorporated area, in the event the plan is adopted, shall continue to receive the same services formerly provided to it by the county government. For services thus continued to citizens of cities rejecting the plan, the tax rates levied by the urban-county for such services shall be the same tax rates as those levied on areas accepting the plan and receiving the same services.

SECTION 103. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Upon the adoption of a plan pursuant to the provisions of Sections 99 to 103 of this Act, the provisions of KRS 67A.030, 67A.050, 67A.060, 67A.080, and 67A.150 shall apply to the plan and the urban-county government. No other provisions of KRS Chapter 67A, now or hereafter enacted, shall apply to such urban-county government, unless specifically designated to apply to an urban-county government in a county containing a city of the first class.

Section 104. KRS 83.345 is amended to read as follows:

(1) The commission established pursuant to subsection (2) of KRS 83.340 shall be composed of *nine (9)* [seven (7)] members to be appointed by the mayor of the largest city in the county and the county judge/executive [, jointly], in the following manner:

(a) Two (2) commissioners from a list submitted by the local city hotel and motel association *jointly appointed.*

(b) One (1) commissioner from a list submitted by the local county hotel and motel association *jointly appointed,* provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list submitted by it.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations *jointly appointed.*

(d) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county *jointly appointed.*

(e) *Two (2) commissioners by the mayor of the largest city in the county who are residents of the city and who have an interest in the tourist and convention industry.*

(f) Two (2) commissioners by the county judge/executive who are residents of the county and who have an interest in the tourist and convention industry [One (1) commissioner by the mayor of the largest city in the county.

(f) One (1) commissioner by the county judge/executive].

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the mayor and county judge/executive shall appoint *three (3)* [two (2)] commissioners for a term of three (3) years, *three (3)* [two (2)] commissioners for a term of *two (2)* [four (4)] years and three (3) commissioners for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 83.340 to 83.350. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; Provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor and the county judge/executive.

Section 105. KRS 83.520 is amended to read as follows:

As to a city of the first class, the provisions of KRS Chapters 65, 66, 76, 77, 80, 91, 95, 96, 98, 99, 104, 106, 107, 108, and 109, and the provisions of Sections 120, 125 and 132 of this Act [The legislative body of a city of the first class shall have the power to exercise all of the rights, privileges, powers, franchises, including the power to levy all taxes, not in conflict with the Constitution and so as to provide for the health, education, safety and welfare of the inhabitants of the city, to the same extent and with the same force and effect as if the General Assembly had granted and delegated to the legislative body of the city all of the authority and powers that are within its powers to grant to a municipal corporation as if expressly enumerated herein. Nothing therein contained to the contrary, the provisions of chapters 65, 66, 76, 77, 79, 80, 89, 91, 93, 95, 96, 97, 98, 99, 103, 104, 105, 106, 107, 108 and 109] shall be considered permissive rather than mandatory and the powers, rights and duties therein delineated may be modified or delegated by the legislative body to different departments and agencies of city government and any restrictions therein set forth shall not be considered abridging in any manner the complete grant of home rule set forth in this grant of power except no right heretofore vested by operation of statute shall in any way be affected.

SECTION 106. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) In Sections 106 to 116 of this Act, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department or other executive unit.

(b) "Appointing authority" or "removing authority" means the mayor under the mayor-council plan or urban-county government, the city commission under the commission plan, and the city manager under the city manager plan.

(c) "Civil service" means the offices and positions of trust or employment in the service of a city of the second or third class or an urban-county government not specifically excluded by Sections 107 to 116 of this Act.

(d) "Commission" means the civil service commission as established under Section 108 of this Act.

(e) "Competitive examination" means the examination or evaluation described in Sections 108 and 109 of this Act.

(f) "Dismissal" means the discharge of an employe.

(g) "Employe" means any person employed in the conduct of municipal affairs, but unless otherwise provided by ordinance the term shall not include:

1. Officers elected by the voters, and persons appointed to fill vacancies in elective offices;
2. Members of all boards, commissions, authorities and administrative agencies;
3. The city administrative officer or city manager;
4. Heads of executive departments;

5. All administrative assistants appointed by the executive authority; or

6. Temporary or part-time employes.

(h) "Seniority" for purposes of Sections 109, 110, and 112 of this Act refers to length of service as defined by ordinance, but shall in each case include employment by a city prior to the adoption of a civil service system and employment by a city, county or other municipality which has been merged into an urban-county government.

(2) The provisions of Sections 108 to 116 of this Act are independent of and do not affect the laws governing the police and fire departments, nor their pension funds.

SECTION 107. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

A city of the second or third class or urban-county government may by ordinance establish a personnel management unit charged with personnel matters. In the event such a unit is established, the city or urban-county government shall by ordinance delegate to the unit, in addition to its regular functions not related to this statute, the initial performance of all or a part of the functions described as functions of the commission in Sections 108 to 110 and 112 of this Act, but no other sections hereof, except that in any event the decisions of the unit shall be subject to review, amendment or change by the commission. In the case of the certification of lists of eligible applicants for employment such lists may be prepared by the personnel management unit, but shall be submitted to the appointing authority only after approval of the commission; and in respect of all other matters delegated, periodic reports shall be made by the unit to the commission, not less than monthly, and any directions of the commission, or any proposed alterations or changes in the action of the unit shall be promptly complied with by the unit.

SECTION 108. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) Any city of the second or third class adopting a civil service system and any urban-county government shall operate under Sections 108 to 116 of this Act and, by ordinance, create a civil service commission, which shall hold such nondiscriminatory, open examinations or evaluations to determine the relative fitness of applicants for municipal employment within the city or urban-county government as are designated by ordinance. The city or urban-county government shall, by ordinance, create civil service classifications for all employes consistent with the actual work to be performed by such employes.

(2) The mayor, subject to the approval of the legislative body, shall appoint five (5) persons who shall constitute the civil service commission of that city or urban-county government. No appointee shall be related by either blood or marriage to the mayor or any member of the legislative body. The appointees shall originally be appointed, two (2) for a term of two (2) years and three (3) for a term of four (4) years, and the successors to these appointees shall be appointed in like manner, each for a period of four (4) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. There shall be chosen by the commission a secretary of the commission. The secretary shall be an employe of the city or urban-county government who is covered by the provisions of Sections 107 to 116 of this Act. Each appointee shall qualify by taking an oath of office as required by law. The salaries, if any, of the members of the commission may be fixed by the legislative body.

(3) If the mayor fails to appoint a civil service commission within ninety (90) days after he has the power to so appoint or after a vacancy exists, the officer who presides in the absence of the mayor, however designated, shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce nondiscriminatory rules, not inconsistent with the provisions of Sections 107 to 116 of this Act, for examinations and registrations therefor.

SECTION 109. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The civil service commission shall prescribe and propound such examinations as are proper, commensurate with vacant positions within the various departments of the city or urban-county government, according to classifications prescribed by ordinance; shall set such times and places for holding examinations as may be proper; shall give public notice of vacancies by publication pursuant to KRS Chapter 424; and shall give actual notice to all eligible applicants of time and place of examinations. The civil service commission may prescribe and propound job descriptions which reasonably establish minimum qualifications and standards for eligibility to take such examinations, but in no event shall such job descriptions be a subterfuge for the evasion of the requirement that employment be determined on the basis of the principles set out herein.

(2) The civil service commission shall, as soon after examinations as is practicable, certify to the appointing authority a list of the eligible applicants. After the compilation of such a list the commission may provide for further, substantially identical examinations, given on the same basis as the original examinations, to supplement the list so compiled, and the results of each such subsequent examination shall be consolidated with the results of the prior examinations to provide an eligible list from among all of those who have taken such examinations.

(3) Every soldier, sailor, marine, member of the air force, army nurse, member of any other branch of military service or Red Cross nurse who served during a period of hostilities between the United States and another power in World War II or the Korean or Vietnam conflict who has not been dishonorably discharged and who is an applicant for any position of civil service of a city or urban-county government shall be entitled to five percent (5%) increase on his examination mark on entrance into civil service employment.

(4) The civil service commission shall certify an eligible list for each position to be filled upon notification by the appointing authority that a vacancy exists.

(5) The legislative body may designate certain civil service positions and prescribe that for such positions the examinations shall first be given exclusively to current employes; provided, however, that if no employe with a minimum of six (6) months seniority achieves a passing grade, an examination shall be held in accordance with subsection (1) of this section.

SECTION 110. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

The civil service commission shall examine all eligible applicants who have been certified and tentatively selected for employment as to their physical and mental qualification for the particular classification wherein they seek employment.

SECTION 111. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

Employes, who at the time the provisions of Section 108 to 116 of this Act become applicable have been in the employ of the city or the urban-county government, or any city or county or other municipality merged into such urban-county government, (a) for six (6) months last past or (b) having been employed after taking a merit system examination, shall not be required to stand an original examination, and shall be eligible for all the benefits provided by Sections 108 to 116 of this Act.

SECTION 112. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the list of eligible applicants certified by the civil service commission.

(2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list of persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission and if certified by the commission as qualified he may be appointed temporarily to fill the vacancy until an appointment can be made after competitive examination. Temporary appointments hereunder and under subsection (3) of this section shall continue only until a regular appointment can be made from the eligible list prepared by the commission.

(3) In the circumstances described in subsection (2) of this section, when no one on the eligible list, or by promotion from the same class or the next lower rank is available, competent and qualified, a temporary appointment may be made by the appointing authority without examination. In no case shall appointment hereunder or under subsection (2) of this section continue longer than ninety (90) days without the approval of the legislative body. Upon a statement of the reasons, the legislative body may extend the length of such a temporary appointment for a maximum of two (2) additional ninety (90) day periods.

(4) Where the service to be rendered by an appointee in the classified service is for a temporary period as provided herein, the appointing authority shall select for that temporary service a person on the list of those eligible for permanent appointment, if such person accepts such appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

(5) Temporary appointments made by reason of these provisions, made necessary by reason of illness or disability of regular employes, may continue during such period of disability, but shall continue only during such period of disability and in no case longer than nine (9) months. No other temporary appointments other than those provided for herein may be made, except that seasonal appointments may be made for periods not in excess of six (6) months.

(6) Seniority in the level or rank of employment in which the vacancy occurs, and seniority in the level or rank of employment nearest the level or rank in which the vacancy occurs shall each be given material consideration in filling such vacancies as shall occur in the classified civil service. Within six (6) months after adoption of a civil service system by a city of the second or third class, or within six (6) months after the effective date of an urban-county government, there shall be established by ordinance (if not delegated to the commission, or to the personnel management unit charged with personnel matters subject to the control of the commission) a plan which in definite terms complies with this subsection. The plan may be amended from time to time in accordance with the ordinance, but the effective date of any alteration therein shall be no sooner than one hundred eighty (180) days after its adoption. The plan shall provide for and describe in reasonable detail the circumstances, if any, under which the seniority described therein shall be the sole criteria for

promotion, and the circumstances in which it will not, and in the latter case, shall provide a reasonably definite method by which applicants shall be entitled to an increase on their examination or evaluation scores by reason of seniority, the relative importance of each type of seniority in the determination, and the percentage increase in the scores for seniority. The circuit court of the county in which the city or urban-county government is located shall have jurisdiction to determine the reasonableness of the plan and alterations thereto and its compliance with the principles set out in this subsection.

(7) In case of vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory reasons stated in writing by the appointing authority the commission may suspend the provisions requiring competitive examination under civil service.

SECTION 113. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) No employe in the classified service of a city of the second or third class or urban-county government, after serving a probationary period provided by ordinance for his class, which shall not be less than six (6) nor more than twelve (12) months, shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law.

(2) Any person may prefer charges in writing against any employe by filing them with the civil service commission. The charges must be signed by the person making them and must set out clearly each charge. Upon the filing of charges the secretary of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin. The hearing shall be held within ten (10) days of the date of the service of charges upon the accused employe, unless all the parties agree in writing otherwise.

(3) The hearing shall be conducted and the record maintained in the manner prescribed in Sections 47 to 51 of this Act.

(4) In cases where the head of the department or executive unit or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he may immediately suspend that employe from duty or from both pay and duty pending a hearing and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(5) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employe's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section

(6) Irrespective of the other provisions of Sections 108 to 116 of this Act, an employe may be suspended by the head of the executive unit in which he is employed, or by the appointing authority, but only as provided by ordinance, for a period not exceeding thirty (30) days in any twelve (12) month period, and may be reprimanded by such head or authority not more than twice in any twelve (12) month period. In such event, the actions of the head or appointing authority shall be subject to appeal to the commission. The appeal shall be filed with the secretary of the commission within ten (10) days of the action of the unit head or appointing authority, and may be reviewed, reduced or revoked by the commission after a hearing in which the unit head or appointing authority shall have reasonable opportunity under rules established by the commission to support his charges. The grounds of suspension or reprimand under this subsection shall be only those set out by ordinance. The commission shall, in the event it finds that the unit head or appointing officer acted in error, take necessary action to compensate the appealing employe for the error including removal of a reprimand from the employe's file or reinstatement with retroactive pay for any period of suspension. An appeal by an employe under this subsection shall suspend the operation of the action of the unit head or appointing authority pending action of the commission.

(7) Nothing herein shall prevent the city or urban-county government from providing additional remedies and rights to employes by ordinance.

SECTION 114. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) Any employe found guilty by the civil service commission of any charge as provided by Section 113 of this Act or whose discipline under subsection (6) of that section has been upheld by the commission may appeal to the circuit court of the county in which the city or urban-county government is located within thirty (30) days after such action becomes final, but the enforcement of the decision of the civil service commission shall not be suspended pending appeal.

(2) An appeal brought under subsection (1) shall be heard in the same manner as prescribed in Section 52 of this Act.

SECTION 115. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body shall fix by ordinance the number and classification of employes, and the

salaries for each classification. When the number of employes and their classification has been fixed by ordinance, including any ordinance of a city or other municipality existing prior to the adoption of the urban-county form of government, which prior ordinance is adopted for any period of time by the urban-county government, no employe shall be dismissed, suspended or reduced in grade or pay for any reason except that set out in Section 113 of this Act.

(2) Provided, further, that whenever in the exercise of a reasonable discretion, it shall be the judgment of the legislative body that economic necessity requires it, or that there is no longer a need for a particular office or position to exist, the legislative body may abolish the office or position and any officer or employe occupying the office or position may be laid off or suspended, until and if the office or position is recreated or reestablished. The abolition of any office or position must not be a subterfuge to effect another purpose, but must be actual and bona fide and must not amount to the mere alteration, modification or abolition of title only.

(3) Any officer or employe aggrieved by the abolition or the proposed abolition of an office or position may at any time within ninety (90) days file a petition in the circuit court of the county wherein the city or urban-county government is located, stating his reason why it should not be abolished, and upon issue joined thereon by the city or urban-county government, the burden shall be on the latter to establish the necessity for and the good faith of the city or urban-county government in abolishing the office or position. The right to abolish and the right to have the office or position recreated shall be determined as other equitable actions are determined.

(4) If an office or position is recreated or reestablished within one (1) year, then any person who was deprived of the office or position shall be restored to it in the order of his seniority if he shall elect to do so, and the city or urban-county government shall advise the officer or employe at his last known address and advertise pursuant to KRS Chapter 424 that the office or position has been recreated or reestablished.

SECTION 116. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

In cities of the second and third class operating under the provisions of Sections 108 to 116 of this Act and in urban-county governments:

(1) No person shall be appointed to any position because of any political service, contribution, sentiment or affiliation. No employe shall be dismissed, suspended or reduced in grade or pay for engaging in any off duty political activity except as provided in subsection (3) of this section.

(2) No employe shall be forced to pay or collect any assessments made by political organizations or contribute to political campaign funds or participate in a political campaign.

(3) No employe may be a candidate for office of the employing city or engage in any political activity involving the election of an official of the employing city or urban-county government.

Section 117. KRS 90.990 is amended to read as follows:

Any person who [shall] knowingly, [or wittingly, or] intentionally, or through gross negligence, *violates* [violate] any of the provisions of this chapter [pertaining to cities of the first and second classes], shall be guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) [, provided, however, that the provisions of this section shall not apply to KRS 90.220].

SECTION 118. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) In KRS 67A.320 to 67A.340, unless the context requires otherwise:

"Pension fund" means the moneys derived from the employes or the levy of a special tax, or any other sum derived from any other source, to be used for the retirement of employes after the prescribed years of service and for the benefit of disabled employes and widows and dependent children in the case of death of an employe within the scope of his employment according to the terms of KRS 67A.320 through 67A.340, the comprehensive plan, or the ordinances of the urban-county government, including retirement systems adopted pursuant to law.

(2) Seniority and length of service for purposes of KRS 67A.320 and 67A.330 shall be in accordance with rules established by the comprehensive plan or ordinance, but shall in each case include service or seniority obtained under pension plans described in such sections existing in municipalities prior to the adoption of urban-county government, and shall in no case give credit to any service or seniority except in respect to such prior service in municipalities having such pension plans, or under urban-county governments, except that the urban-county government may purchase credits in lieu of seniority, the cost thereof being determined by the trustees of the pension fund, in accordance with sound actuarial principles, for employes whose seniority or length of service was under municipalities other than those described herein.

(3) The provisions of KRS 67A.320 to 67A.340 do not affect the laws governing the police and fire department pension funds.

SECTION 119. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Qualified police of any city shall be peace officers of the city and the state and may execute process and make arrests anywhere in the county in which the city is located.

SECTION 120. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Qualifications for city police and fire fighters shall be set by ordinance and shall include, but not be limited to, the following:

(a) Age of at least 21 years;
(b) Citizenship in the United States;
(c) Residence in the Commonwealth of Kentucky; and
(d) Graduation from an accredited high school.

City police and fire fighters employed prior to the effective date of this Act shall remain qualified for city employment, provided they remain employed by the same city with no break in service.

(2) City police shall as a minimum successfully complete within one (1) year of the effective date of this Act or date of employment, whichever is later, a practical police training course of at least eighty (80) hours duration conducted or certified by the department of justice in order to remain qualified for employment as a police officer. Police who fail to comply with this subsection within the one (1) year specified shall not thereafter have the powers of a peace officer until so qualified.

(3) Police who comply with subsection (2) shall remain qualified to possess the powers of a peace officer so long as they remain employed by the same city with no break in service. Candidates for employment as police who have complied with subsection (2) within five (5) years prior to the date of subsequent employment shall remain qualified to have the powers of a peace officer so long as they remain employed by the same city with no break in service.

SECTION 121. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Cities may appoint citation officers who shall have qualifications as prescribed by ordinance and who shall not have powers of peace officers to arrest or carry weapons, but may issue citations as authorized by ordinance or statute.

(2) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

SECTION 122. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Each member of the police force of a city shall take an oath to uphold the United States constitution, the Kentucky constitution, the laws of the Commonwealth, and the ordinances of the city, and to faithfully discharge the duties of his office.

SECTION 123. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

No member of a city police force or fire department shall be liable to arrest on civil process while on duty.

SECTION 124. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Each city shall establish by ordinance procedures for the security, proper accounting and disposition of all property taken into the custody of the police department. The procedures shall include adequate due process provisions to protect rights of property owners and shall be consistent with the provisions of the Kentucky penal code. The proceeds from any sale of such property by the city shall be paid into the fund from which police pensions are paid, if any, and otherwise into the general fund of the city.

SECTION 125. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be appointed a member of the police or fire department in a city on account of any political service, contribution, sentiment or affiliation. No member of a city police or fire department shall be dismissed, suspended or reduced in grade or pay for engaging in any off-duty political activity except as provided in subsection (3) of this section.

(2) No member of a city police or fire department shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or participate in a political campaign.

(3) No member of a city police or fire department may be a candidate for office of the employing city or engage in any political activity involving the election of an official of the employing city.

SECTION 126. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) In each city of the second class or urban-county government, all employes of the fire department shall be given not less than two (2) weeks of absence annually, with full pay.

(2) This section shall not apply in cities which enter into collective bargaining agreements with fire department employes.

SECTION 127. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) The fire department of each city of the first and second class or urban-county government shall be divided into three (3) platoons. Each platoon shall be on duty for twenty-four (24) consecutive hours after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of emergency. The schedule of working hours shall be arranged to comply with this section. The pay, rank or benefits of the members and officers of the fire department shall not be reduced as a result of this section.

(2) This section shall not apply in cities which enter into collective bargaining agreements with fire department employes.

Section 128. KRS 95.015 is amended to read as follows:

Members of the police and fire departments in cities and urban-county governments shall abide by and adhere to the rules, regulations and laws set forth by the Kentucky Revised Statutes, and the legislative body of the city in which they are employed, provided, that *said members, except as limited by Section 125 of this Act or when on duty, shall not be restrained from entering into any activity enjoyed by all other citizens of the city in which they reside, except that off-duty employment of a nature incompatible with the duties and responsibilities of city police or fire protection service or reflecting discreditably upon such service is prohibited* [no such rule, regulation or law shall apply that alters, abridges or otherwise restricts the constitutional rights of said members and said members, except when on duty, shall not be restrained from exercising their rights and privileges or from entering into any endeavor enjoyed by all other citizens of the city in which they reside].

Section 129. KRS 95.495 is amended to read as follows:

(1) In all cities of the second *or third* class or urban-county governments, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

(3) This section shall not apply in cities which enter into collective bargaining agreements with police department employes.

SECTION 130. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) If a city of the fourth, fifth or sixth class adopts an ordinance establishing civil service for the police or fire department, the city may adopt the same provisions governing civil service for police or fire departments in cities of the second or third class by specifying the option in the ordinance.

(2) If a city of the fourth, fifth or sixth class adopts an ordinance establishing a pension fund for the police or fire department, the city may adopt the same provisions governing pension funds for police or fire departments in cities of the second or third class by specifying the option in the ordinance.

(3) Such cities may not rescind such adoptions once adopted.

SECTION 131. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, no member of the police or fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay. Grounds for disciplinary action shall be limited to inefficiency, misconduct, insubordination, and violation of the law.

(2) Any person may prefer charges against a member of the police or fire department by filing them with the person responsible for maintaining the records of the legislative body.

(3) Upon filing of the charges by a legislative body member, or appointing authority, or the head of the department, the member charged shall promptly be served with a copy of the charges and notice of the time and place the legislative body will hold a hearing on the charges which shall not be sooner than ten (10) days after service of the charges nor later than the first regular meeting of the legislative body after expiration of said ten (10) days. No legislative body member preferring charges may sit as a legislative body member during any hearing on those charges. The person accused may in writing waive the hearing of charges and accept the disciplinary decision of the legislative body.

(4) Upon filing of charges by any person other than a legislative body member, the appointing authority, or the head of the department, a copy of the charges shall promptly be forwarded to the member charged and

to the attorney having the responsibility for prosecuting the charge before the legislative body. The attorney shall review the charges to determine whether they state grounds for disciplinary action, and if grounds for disciplinary action is stated within the complaint, shall investigate to determine whether sufficient evidence to support the complaint exists to merit a hearing before the legislative body. Within five (5) days after filing of the charges the attorney shall file with the legislative body his recommendations as to whether further prosecution of the charges before the legislative body should follow. Not later than its first regular meeting after the attorney has filed his recommendations, the legislative body shall decide whether to hear the charges. If the legislative body decides to hear the charges, notice of the time and place the legislative body will hold a hearing on the charges shall be served upon the member charged. The hearing date shall be not sooner than ten (10) days after service of the notice nor later than the first regular meeting of the legislative body after expiration of the ten (10) days. The person accused may in writing waive the hearing of charges and accept the disciplinary decision of the legislative body.

(5) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge on application of the legislative body may compel obedience by proceeding for contempt as in the case of disobedience of a subpoena issued from the district court. The member charged may have subpoened any witnesses he may desire, upon furnishing their names to the legislative body. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(6) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he may suspend the member from duty or from both pay and duty, pending a hearing, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuance granted without the consent of the member charged.

(7) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(8) Notwithstanding the other provisions of this section, a member of the police or fire department may be suspended without pay on the grounds specified in subsection (1) of this section by the head of the department or by the appointing authority for not more than thirty (30) days in any twelve (12) month period, and may be reprimanded by such head or authority not more than twice in any twelve (12) month period. The actions of such head or authority shall be subject to appeal to the legislative body if notice of appeal is filed with the person responsible for maintaining the records of the legislative body within ten (10) days of the action of the unit head or appointing authority. The provisions of subsections (3), (4) and (5) of this section shall apply to appeal hearings. The appealed action may be reviewed, reduced or revoked by the legislative body. If the legislative body finds that the unit head or appointing authority acted in error, it shall take necessary action to restore the appealing employe to his condition before the error. An appeal by an employe shall suspend the operation of the action of the unit head or appointing authority pending action by the legislative body.

SECTION 132. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Any plan adopted by a city or an agency of a city for the payment of retirement, disability or hospitalization benefits to its employes and hospitalization benefits to the immediate families of its employes, and any plan of an urban-county government under KRS 67A.360 to 67A.690 for a police and firemen's retirement and benefit fund, shall provide that any officer or member of a paid city police or fire department who has completed five (5) years or more service in the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, shall be presumed to have contracted the disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired under terms of the pension system of which he is a member if he passed an entrance physical examination and was found to be in good health as required. This section shall not apply in cities required to operate under the terms of KRS 95.851 to 95.885.

Section 133. KRS 96A.040 is amended to read as follows:

(1) The business, activities and affairs of a transit authority shall be managed, controlled and conducted by a board consisting of members appointed as follows:

(a) If the authority is established by one (1) city alone, or by a county alone, the members shall be eight (8) in number and shall be appointed by the appointing authority of such city or county;

(b) If the authority is established by joint proceedings of two (2) public bodies, the membership shall be eight (8) in number, four (4) of whom shall be appointed by the appointing authority of each of such public bodies;

(c) If an authority is created and established by joint proceedings of more than two (2) public bodies, the membership shall be eight (8) in number, plus one (1) additional member for each participating public body in excess of two (2), and the members thereof shall be appointed by the appointing authorities of the participating public bodies in such manner as may be set forth in the joint proceedings;

(d) If an authority is created and established, and subsequently one or more other public bodies are permitted to join therein, the membership of the board may be enlarged, with the concurrence and approval of the governing bodies of the public bodies theretofore participating, by not more than one (1) additional member for each additional public body so permitted to join the authority.

(2) [No officer or employe of any public body represented in the creation, establishment, or enlargement of an authority shall be eligible for appointment to the board.

(3)] After the effective date of the creation of an authority as provided in this chapter, the appointing authority or the appointing authorities, as the case may be, shall, in such manner as may be specified in the proceedings or joint proceedings, appoint at least two (2) members for terms of one (1) year, at least two (2) members for terms of two (2) years, at least two (2) members for terms of three (3) years, and the remaining number for terms of four (4) years; such terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment. Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of four (4) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment.

(3) [(4)] Any member of the board may be removed by his or her appointing authority for inefficiency, neglect of duty, malfeasance, conflict of interest, or want of mental or physical capacity to serve. Any appointing authority exercising the power to remove a member of the board shall submit to the board a written statement setting forth the reasons for removal. Notice shall be given to the member named in such statement; a hearing, if requested, shall be conducted within thirty (30) days before the members of the board who are not the subject of such removal proceedings; a record of the hearing shall be made by the secretary-treasurer of the board; and the member named in such removal notice may appeal any adverse decision, within ten (10) days after the rendering thereof, to the circuit court of any county which is served in whole or in part by the facilities of the transit authority, such appeal to be perfected by filing with the clerk of such court a copy of the removal proceedings certified by the secretary-treasurer of the board. The court, upon application of the member removed, may in its discretion order that the original record of the proceedings be filed with the clerk as the basis for such appeal. There shall be a right of appeal to the Court of Appeals.

(4) [(5)] Members of the board shall be allowed reasonable expenses necessarily incurred by them in the conduct of the affairs of the authority. Compensation may be paid to members of the board if so provided in the proceedings or joint proceedings, subject to such limitations as may be set forth therein.

Section 134. KRS 96A.170 is amended to read as follows:

[(1)] An authority created and established under this chapter, together with its ownership, financing, operation, rates and charges for use of its services and facilities, rules and regulations, routes, schedules and quality of service within its transit area shall be exempt from all jurisdiction of the department of transportation of the commonwealth, provided, however, that no new service may be instituted within or outside of the authority's transit area in competition with an existing certificated bus company without an application to and a grant of authority from the department of transportation as provided by KRS chapter 281, provided further that nothing in this section shall deny the department of transportation the authority to render such advice and assistance, including financial aid, engineering, planning and technical assistance, as it deems advisable, to enable an authority as created under this chapter to acquire, construct, expand, maintain, and operate a mass transit system as defined in this chapter and to establish regulations to promote local transit authorities.

[(2) No transit authority may engage in any charter bus service beyond the territorial limits of its transit area except a transit authority located in an urban county government which may engage in intrastate charter bus service within twenty-five miles from the boundaries of the urban county government.]

Section 135. KRS 99.490 is amended to read as follows:

(1) If the council within its discretion finds and determines that it would be more efficient and in the public interest for the powers, functions, and duties of an agency to be exercised by the community or the housing authority of the community, such community or housing authority shall have all of the powers, functions, rights, duties and privileges (subject to the limitations thereon) of an agency under KRS 99.330 to 99.510, and any powers of a public body (including a community) to assist an agency, or a project thereof, may be exercised to assist such community or housing authority or the project thereof. For such purposes, the term "agency," as used in KRS 99.330 to 99.510, shall mean the housing authority or the city or county, as the

case may be, unless a different meaning clearly appears from the context. If a community has, pursuant to this section, determined to exercise the powers, functions, and duties of an agency, it may delegate any of them to a department or departments of such community, or may create a special department to exercise the powers and perform the functions and duties of an agency; provided that no such department or departments shall have the power to issue the bonds or acquire title to real property, this power being reserved to the community. Bonds issued by the community or by the housing authority of the community for any purposes under KRS 99.330 to 99.590 may be revenue bonds.

(2) The council of a community may dissolve an agency created under KRS 99.350 upon adoption of a resolution so providing and containing the findings required by subsection (1) of this section.The provisions of subsection (1) shall thereupon apply, except that a city may choose, in lieu thereof, to exercise urban renewal functions pursuant to Sections 41 to 54 of this Act. In no event shall such dissolution impair the obligations of any contracts of the agency which shall continue under the same terms and conditions as contracts of the community.

Section 136. KRS 100.131 is amended to read as follows:

An independent city planning unit may exercise extraterritorial jurisdiction for the purposes of subdivision regulations. *It may also exercise extraterritorial jurisdiction for the purposes of zoning regulations up to two (2) miles* and, with the consent of the fiscal court, *zoning* [other] regulations up to five (5) miles from all points upon the city's boundary, but not beyond the county boundary, nor within the boundary of any city not in such planning unit, provided, however, that where the extraterritorial *jurisdictions* [jurisdiction] of planning units overlap, the boundary shall be midway between them. The jurisdiction of joint and regional planning units shall be coterminous with their political boundaries. Nothing herein, however, shall prevent any planning unit from making planning studies of areas located outside its jurisdiction.

Section 137. KRS 132.027 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no city shall levy a rate which exceeds the compensating tax rate defined in KRS 132.010, except as provided in [subsection (2) of] this section.

(2) [Notwithstanding the limitations contained in subsection (1) of this section,] Any city which levied a poll tax in 1973 may include the revenues received from the poll tax in that year in computing the compensating tax rate for 1974 and subsequent years.

(3) Any city may change the compensating tax rate only by popular vote in accordance with Section 35 of this Act. If a majority of votes cast approve a change in the compensating tax rate, the city legislative body shall levy ad valorem taxes at a rate not to exceed the rate approved by the voters in the next tax levy and in such succeeding levy until changed by the voters.

(4) The voters of any service area within a taxing district as provided in subsection (4) of Section 60 of this Act may increase the compensating tax rate for that service area by following the provisions of subsection (3). The question submitted to the voters may specify the nonrevenue-producing service to be provided as a result of increasing the tax rate in which case any increase in revenue shall be used by the city to provide the services specified. If any indebtedness is incurred by the city in providing additional urban services to a service area under this subsection, the increase in the compensating tax rate for the service area shall not be lowered until the indebtedness is retired.

Section 138. KRS 424.120 is amended to read as follows:

(1) Except as provided in subsection (2), whenever an advertisement for a publication area is required by law to be published *and* [in a] newspaper *publication is chosen as the method of publishing such advertisement,* the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains a known office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper printed outside of Kentucky shall not be eligible to publish advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper printed in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It must be of regular issue and have the largest bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding one-year period. A newspaper shall be deemed to be of *the largest* bona fide circulation in the publication area if it *had the largest average number of copies of total paid circulation each issue during the preceding twelve (12) months as indicated by the statement of ownership, management and circulation filed by newspaper publishers with the U.S. Postal Service* [is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent of its published price, and is paid for by not less than fifty percent of those to whom distribution is made]; and

(c) It must bear a title or name, consist of not less than four pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content must be at least twenty-five percent of the total column space in more than one-half of its issues during any twelve-month period.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area.

Section 139. KRS 424.160 is amended to read as follows:

(1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion at a rate per linear inch, single column, computed as solid eight-point measure. The rate shall not exceed *the lowest earned advertising rate for the same or similar space as appearing on the most recently published or prepared advertising rate card of the particular newspaper* [that paid by general advertisers for comparable matter, but in no case shall it be less than $1.00 per linear inch for weekly newspapers and $1.50 per linear inch for daily newspapers].

(2) Whenever by law or by the nature of the matter to be published a display form of advertisement is required, or whenever the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive therefor *the lowest earned advertising rate for the same or similar space as appearing on the most recently published or prepared advertising rate card of the particular newspaper* [its established display rate].

(3) Whenever it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

Section 140. KRS 424.170 is amended to read as follows:

(1) The affidavit of the publisher or proprietor of a newspaper, stating that an advertisement has been published in his newspaper and the times it was published, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

(2) The affidavit of the person responsible for publishing as described in KRS 424.150, stating that an advertisement has been either delivered by hand or first class mail to each residence and place of business within the publication area, and to all interested persons who request receipt of such advertisements but who do not reside or have a place of business in the publication area, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

Section 141. KRS 424.190 is amended to read as follows:

(1) In any case where a statute now gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and in any case where a statute now provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, *except as provided in subsection (2) of this section.*

(2) In lieu of newspaper publication of advertisement, persons responsible for publication as described in KRS 424.150 may substitute delivery of a copy of the advertisement by hand or by first class mail to each residence and place of business within the publication area and to all interested persons who request receipt of such advertisements but who do not reside or have a place of business within the publication area.

Section 142. KRS 424.220 is amended to read as follows:

Excepting officers of [a city of the first class,] a county containing [such] a city *of the first class*, a public agency of such a [city or] county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of *any* [a] city [of the second class that is required by law to publish an annual audit of its financial affairs], every public officer of any school district, [city,] county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a [city,] county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown and except that the amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service; however the local board of education must have accessible a factual list of individual salaries for public scrutiny and the local board shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school employes. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the [city,] county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within thirty days after publication, the officer shall file with the auditor of public accounts a copy of the newspaper containing the statement.

Section 143. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than *five thousand dollars ($5,000)* [two thousand five hundred dollars ($2,500)] without first making newspaper advertisement for bids. Provided, however, That this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

Section 144. KRS 67A.010 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the voters in any county [except a county containing a city of the first class] may merge all units of city and county government into an urban county form of government. Such merger shall take place only after compliance with the procedures set forth in KRS 67A.020 *or Sections 99 to 103 of this Act.*

SECTION 145. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

The commentary accompanying this Code may be used as an aid in construing the provisions of this Code.

Section 146. KRS 57.285, 61.250, 61.260, 61.270, 61.280, 64.580, 65.010, 65.020, 66.050, 66.060, 66.070, 66.180, 66.190, 66.200, 66.230, 66.240, 66.250, 66.260, 66.270, 66.410, 66.420, 66.430, 66.440, 66.450, 66.460, 67.330, 67.340, 67.350, 67.360, 67.370, 67A.070, 67A.210, 67A.220, 67A.230, 67A.240, 67A.250, 67A.260, 67A.270, 67A.280, 67A.290, 67A.300, 67A.310, 67A.710, 67A.715, 67A.720, 67A.725, 67A.730, 67A.735, 67A.740, 67A.745, 67A.750, 67A.755, 67A.760, 67A.765, 67A.770, 67A.775, 67A.780, 67A.785, 67A.790, 67A.795, 67A.800, 67A.805, 67A.810, 67A.815, 67A.820, 67A.825, 67A.871, 67A.872, 67A.873, 67A.874, 67A.875, 67A.876, 67A.877, 67A.878, 67A.879, 67A.880, 67A.881, 67A.882, 67A.883, 67A.884, 67A.885, 67A.886, 67A.887, 67A.888, 67A.889, 67A.890, 67A.891, 67A.892, 67A.893, 67A.894, 69.450, 69.460, 69.470, 69.480, 69.490, 69.540, 69.550, 69.560, 69.575, 69.580, 69.590, 79.010, 79.020, 79.030, 79.040, 79.050, 79.060, 79.070, 79.080, 79.100, 79.110, 79.120, 79.130, 79.140, 79.150, 79.160, 79.170, 79.180, 79.190, 80.010, 80.020, 80.030, 80.040, 80.050, 80.060, 80.070, 80.080, 80.090, 80.110, 80.120, 80.130, 80.140, 80.150, 80.160, 80.170, 80.180, 80.190, 80.200, 80.230, 80.240, 80.250, 80.255, 80.256, 80.257, 80.620, 80.630, 80.640, 80.650, 80.660, 80.670, 80.680, 80.685, 80.690, 80.700, 80.710, 80.720, 81.020, 81.030, 81.040, 81.050, 81.060, 81.070, 81.080, 81.090, 82.010, 82.020, 82.025, 82.030, 82.040, 82.050, 82.060, 82.070, 82.075, 82.080, 82.085, 82.090, 82.095, 82.105, 82.110, 82.115, 82.120, 82.125, 82.130, 82.135, 82.140, 82.145, 82.150, 82.155, 82.160, 82.165, 82.170, 82.175, 82.180, 84.010, 84.020, 84.030, 84.040, 84.050, 84.060, 84.070, 84.080, 84.090, 84.100, 84.110, 84.130, 84.140, 84.150, 84.160, 84.170, 84.180, 84.190, 84.200, 84.210, 84.220, 84.230, 84.240, 84.250, 84.260, 84.270, 84.280, 84.290, 84.300, 84.320, 84.330, 84.340, 84.350, 84.360, 84.370, 84.990, 85.010, 85.020, 85.030, 85.040, 85.050, 85.060, 85.070, 85.080, 85.090, 85.100, 85.110, 85.120, 85.130, 85.140, 85.150, 85.160, 85.170, 85.180, 85.190, 85.200, 85.210, 85.220, 85.230, 85.240, 85.250, 85.260, 85.270, 85.280, 85.290, 85.300, 85.310, 85.320, 85.330, 85.335, 85.340, 85.350, 86.010, 86.020, 86.030, 86.040, 86.050, 86.053, 86.060, 86.070, 86.080, 86.090, 86.100, 86.110, 86.120, 86.130, 86.140, 86.150, 86.160, 86.170, 86.180, 86.190, 86.200, 86.210, 86.220, 86.230, 86.240, 86.250, 86.990, 87.010, 87.020, 87.030, 87.040, 87.050, 87.060, 87.070, 87.080, 87.090, 87.100, 87.110, 87.120, 87.130, 87.140, 87.150, 87.160, 87.170, 87.175, 87.180, 87.190, 87.200, 87.210, 88.010, 88.020, 88.030, 88.040, 88.050, 88.060, 88.070, 88.080, 88.090, 88.100, 88.110, 88.120, 88.130, 88.140, 88.150, 88.160, 88.170, 88.180, 88.190, 88.200, 88.210, 88.230, 89.010, 89.020, 89.030, 89.040, 89.050, 89.060, 89.070, 89.080, 89.090, 89.100, 89.110, 89.120, 89.130, 89.140, 89.150, 89.160, 89.170, 89.180, 89.190, 89.200, 89.205, 89.210, 89.220, 89.230, 89.240, 89.250, 89.260, 89.280, 89.290, 89.300, 89.310, 89.320, 89.330, 89.340, 89.350, 89.360, 89.370, 89.380, 89.390, 89.400, 89.410, 89.420, 89.430, 89.440, 89.450, 89.460, 89.470, 89.480, 89.490, 89.500, 89.510, 89.520, 89.530, 89.540, 89.545, 89.550, 89.560, 89.565, 89.570, 89.580, 89.590, 89.600, 89.610, 89.620, 89.630, 89.640, 89.650, 89.660, 89.670, 89.680, 89.690, 89.980, 89.990, 90.300, 90.310, 90.320, 90.330, 90.340, 90.350, 90.360, 90.370, 90.380, 90.390, 91.020, 91.060, 91.090, 91.100, 91.110, 91.120, 91.200, 91.260, 91.265, 91.270, 91.280, 91.290, 91.300, 91.310, 91.320, 91.330, 91.340, 91.350, 91.360, 91.370, 91.375, 91.380, 91.390, 91.400, 91.410, 91.420, 91.430, 91.440, 91.450, 91.460, 91.470, 91.480, 91.490, 91.500, 91.505, 91.510, 91.520, 91.530, 91.540, 91.550, 91.560, 91.570, 91.580, 91.590, 91.600, 91.610, 91.620, 91.630, 91.640, 91.650, 91.660, 91.670, 91.680, 91.990, 92.010, 92.020, 92.030, 92.040, 92.050, 92.060, 92.070, 92.080, 92.090, 92.100, 92.110, 92.120, 92.130, 92.140, 92.150, 92.160, 92.170, 92.180, 92.190, 92.200, 92.210, 92.220, 92.230, 92.240, 92.250, 92.260, 92.270, 92.280, 92.281, 92.285, 92.290, 92.300, 92.310, 92.320, 92.330, 92.340, 92.350, 92.360, 92.370, 92.380, 92.400, 92.403, 92.405, 92.410, 92.420, 92.430, 92.440, 92.450, 92.460, 92.470, 92.480, 92.490, 92.500, 92.510, 92.520, 92.530, 92.540, 92.550, 92.560, 92.570, 92.580, 92.590, 92.600, 92.610, 92.620, 92.630, 92.637, 92.640, 92.650, 92.660, 92.670, 92.680, 92.690, 92.700, 92.710, 92.720, 92.730, 92.740, 92.750, 92.760, 92.770, 92.780, 92.790, 92.800, 92.990, 93.010, 93.015, 93.020, 93.030, 93.050, 93.060, 93.070, 93.080, 93.090, 93.100, 93.110, 93.120, 93.275, 93.280, 93.290, 93.300, 93.310, 93.320, 93.330, 93.340, 93.350, 93.351, 93.352, 93.354, 93.355, 93.356, 93.359, 93.360, 93.370, 93.380, 93.390, 93.400, 93.410, 93.420, 93.430, 93.440, 93.450, 93.460, 93.470, 93.480, 93.490, 93.500, 93.510, 93.520, 93.530, 93.540, 93.550, 93.560, 93.570, 93.580, 93.590, 93.600, 93.880, 93.890, 93.900, 93.910, 93.920, 93.930, 93.940, 93.950, 93A.010, 93A.020, 93A.030, 93A.040, 93A.050, 93A.060, 93A.070, 94.010, 94.020, 94.030, 94.040, 94.050, 94.060, 94.070, 94.080, 94.090, 94.100, 94.110, 94.120, 94.130, 94.140, 94.150, 94.160, 94.170, 94.205, 94.280, 94.281, 94.282, 94.283, 94.284, 94.285, 94.286, 94.287, 94.291, 94.292, 94.293, 94.294, 94.295, 94.296, 94.297, 94.298, 94.299, 94.301, 94.302, 94.303, 94.304, 94.305, 94.306, 94.307, 94.308, 94.309, 94.311, 94.312, 94.313, 94.314, 94.315, 94.316, 94.317, 94.318, 94.319, 94.321, 94.322, 94.323, 94.324, 94.325, 94.351, 94.352, 94.353, 94.354, 94.360, 94.370, 94.500, 94.510, 94.520, 94.530, 94.540, 94.550, 94.560, 94.570, 94.670, 94.680, 94.740, 94.750, 94.760, 94.810, 94.815, 94.820, 94.825, 94.830, 94.840, 94.990, 95.150, 95.160, 95.170, 95.180, 95.200, 95.210, 95.270, 95.275, 95.430, 95.435, 95.440, 95.445, 95.450, 95.470, 95.480, 95.490, 95.497, 95.500, 95.505, 95.510, 95.680, 95.700, 95.710, 95.715, 95.720, 95.730, 95.740, 95.750, 95.760, 95.761, 95.762, 95.763, 95.764, 95.765, 95.766, 95.786, 95.787, 95.790, 95.800, 95.810, 95.820, 95.840, 97.060, 97.070, 97.080, 97.090, 97.100, 97.110, 97.120, 97.130, 97.140, 97.150, 97.160, 97.170, 97.180, 97.190, 97.200, 97.210, 97.220, 97.230, 97.240, 97.250, 97.251, 97.252, 97.253, 97.255, 97.257, 97.405, 97.425, 97.435, 97.441, 97.455, 97.465, 97.475, 97.485, 97.530, 97.540, 97.550, 97.560, 97.570, 97.580, 97.590, 97.600, 97.610, 97.620, 97.630, 97.640, 97.650, 97.660, 97.670, 97.680, 97.690, 97.700, 97.710, 97.720, 97.730, 97.740, 97.750, 97.760, 97.770, 97.780, 98.010, 98.011, 98.012, 98.013, 98.014, 98.030, 98.040, 98.050, 98.060, 98.070, 98.080, 98.090, 98.100, 98.110, 98.120, 98.130, 98.140, 98.150, 98.160, 98.170, 98.180, 99.610, 99.615, 99.620, 99.625, 99.630, 99.635, 99.640, 99.645, 99.650, 99.655, 99.660, 99.665, 99.670, 99.675, 99.680, 99.750, 99.755, 99.760, 99.765, 99.770, 102.010, 102.020, 102.030, 102.040, 102.050, 102.060, 102.070, 102.080, 103.010, 103.020, 103.030, 103.040, 103.050, 103.060, 103.070, 103.080, 103.090, 103.100, 103.110, 103.120, 103.130, 103.140, 103.150, 103.160, 103.170, 103.180, 103.190, 104.020, 104.030, 104.040, 104.050, 104.060, 104.070, 104.080, 104.090, 104.100, 104.110, 104.120, 104.130, 104.140, 104.150, 104.160, 104.170, 104.180, 104.190, 104.200, 104.210, 104.220, 104.230, 104.240, 104.250, 104.260, 104.270, 104.280, 104.290, 104.300, 104.310, 104.320, 104.330, 104.340, 104.350, 104.360, 104.370, 104.380, 105.010, 105.020, 105.030, 105.040, 105.050, 105.060, 105.070, 105.080, 105.090, 105.100, 105.110, 105.120, 105.130, 105.140, 105.150, 105.160, 105.170, 105.180, 108A.010, 108A.020, 108A.030, 108A.040, 108A.050, 108A.060, 108A.070, 108A.080, 108A.090, 108A.100, 108A.110, 108A.120, 108A.130, 132.285, 181.510, 181.520, 181.530, 181.540, 181.550, 181.560, 181.570, 181.580, 181.590, 181.600, 181.610, 181.620, 181.630, 181.640, 181.650, 181.660, 181.670, 181.680, 181.690, 181.700, 181.710, 181.720, 181.730, 181.740, 181.750, 181.760, 181.770, 181.780, 181.790, 181.800, 181.810, 181.820, 181.830, 181.840, 181.850, 181.851, 181.852, 181.853, 181.854, 181.855, 181.856, 181.857, 181.858, 181.859, 181.860, 181.861, 181.862, 181.863, 181.864, 181.865, 181.866, 181.867, 181.868, 181.869, 200.340, 200.345, 200.350, 200.355, 204.200, 204.210, 216.080, 216.090, 216.230, 216.240, and 416.120 are repealed.

Section 147. All provisions of this Act, with the exception of Sections 114 to 118 shall become effective July 1, 1980. Sections 114 to 118 shall become effective July 1, 1978.

Announcements (continued)

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 157** by Representative Kenton.

Floor Amendment No. 1 to **HB 200** by Representative Lindsay.

Floor Amendment No. 2 to **HB 208** by Representative Donnermeyer.

Floor Amendment No. 1 to **HB 227** by Representative Weinberg.

Floor Amendment No. 1 to **HB 334** by Representative Williams.

Floor Amendment No. 2 to **HB 406** by Representative Blandford.

Floor Amendment No. 1 to **HB 443** by Representative Brinkley.

Floor Amendment No. 3 to **SB 104** by Representative Clapp.

Floor Amendment No. 4 to **SB 104** by Representative DeMarcus.

Floor Amendment No. 5 to **SB 104** by Representative Hancock.

Floor Amendment No. 6 to **SB 104** by Representative Hancock.

Floor Amendment No. 1 to **SB 117** by Representative B. Richardson.

Adjournment

Representative B. Richardson moved that the House adjourn until 10 a.m., Friday, February 17, 1978.

On the roll call the vote was yeas 40-Arnold, Bennett, Benson, Beshear, Boswell, Bruce, Clarke, Craddock, Cyrus, Davenport, Donnermeyer, Foster, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Kidd, Kleier, Layman, Mann, May, Maynard, McBee, Nett, Noe, Pearman, Petty, Priddy, B. Richardson, Riner, Schmidt, F. Smith, Thomas, Turner, Weinberg, Wilborn, Worthington. Nays 8-W. Allen, Blythe, Dunn, Gray, Guenthner, Hurst, Imes, Van Horn.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 17, 1978

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Donald F. Coleman, South Jefferson Baptist Church, Valley Station, Kentucky.

The roll was called. All present except Representatives Deskins, Fitzgerald, Guenthner, LeMaster, Stewart, and Turner.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 16, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 583, by Representative J. Allen: AN ACT relating to the registration of geologists.

HB 584, by Representatives Dunn, Romines, Bennett, Kleier, Priddy, Siemens and Yates: AN ACT relating to traffic control devices.

HB 585, by Representative Dawahare: AN ACT relating to state representative districts.

HB 586, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to the Constitution revision assembly.

HB 587, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to misdemeanor cases before county judges.

HB 588, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to pending business of bodies incorporated into the department for human resources.

HB 589, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to the Kentucky children's advisory council.

HB 590, by Representatives Brinkley, Stone, B. Richardson and Boatwright: AN ACT relating to transfer to human resources of funds, assets, obligations and resources of bodies incorporated into human resources under 1974 reorganization act.

HB 591, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to the transfer of other agencies' functions to the department for human resources.

HB 592, by Representatives Brinkley, Stone, B. Richardson and Boatwright: AN ACT relating to an election on the financing of construction of highways, bridges and tunnels in 1956.

HB 593, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to protection of information of bodies incorporated into human resources by reorganization act of 1974.

HB 594, by Representatives Brinkley, Boatwright, B. Richardson, Siemens and Stone: AN ACT relating to retention of rules, regulations and contracts of various bodies transferred to department for human resources by 1974 reorganization act.

HB 595, by Representatives Brinkley, Boatwright and B. Richardson: AN ACT relating to rules and regulations of various bodies transferred to human resources under 1974 reorganization act.

HB 596, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to alcohol and drug abuse.

HB 597, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to transfer of functions of various councils and committees to councils and committees of human resources.

HB 598, by Representatives Brinkley, Boatwright, B. Richardson and Stone: AN ACT relating to administering of gifts and grants by the department for human resources.

HCR 62, by Representative Burch: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of the federal regional system.

The Speaker vacated the Chair.

The Speaker Pro Tempore assumed the Chair.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions.

Appropriations and Revenue: **HB 567, HB 580, SJR 5.**

Banking and Insurance: **SB 225.**

Cities: **HB 563.**

Counties and Special Districts: **HB 570.**

Education: **HB 564, HB 565, HB 568, HB 571, HB 576, HB 578, HB 579, HR 61.**

Health and Welfare: **HB 562, HR 60.**

Highways and Traffic Safety: **HB 581.**

Judiciary-Courts: **HB 582, SB 156.**

Judiciary-Statutes: **HB 572, HB 574, HB 575, SB 105.**

Labor and Industry: **HB 573.**

State Government: **HB 566, HB 569, HB 577.**

Report of Committees

The Committee on Rules reported **HB 59, HB 118, HB 355, HB 36, HB 404, HB 209, HB 210, HB 251, HB 301, HB 307, HB 316, HB 340, SB 84, SB 101, SB 91, SB 93, HB 358, HB 360, HB 378** have been posted for passage in Orders of the Day, February 21, 1978.

The Committee on Rules reported the following Bills have been recommitted: **HB 10** to Appropriations and Revenue, **HB 259** to Judiciary-Statutes, **HB 261** to Appropriations and Revenue, **HB 45** to Counties and Special Districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 356.**

State Government: **HB 496, SB 71, SB 150.**

Judiciary-Courts: **HB 552.**

Public Utilities and Transportation: **HB 547.**

Senate Message

Announcing passage of **SB 13, SB 94, SB 134, SB 148, SB 186, SB 200, HB 49, HB 126,** and **HR 12.**

Calendar

HB 359, HB 382, SB 1, SB 102, HB 354, HB 369, HB 435, HJR 13, SB 37, HB 75, HB 187, HB 342, SB 17, HB 162, HB 263, HB 362, HCR 29, HB 202, HB 214, HB 221, HB 350, HB 469, HR 47, HB 87 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Kenton, **HB 87;** Representative Layman, **HB 317.**

Representative Sale moved the adoption of the following Legislative Citation No. 29:

The House of Representatives hereby congratulates Shelia Bruce who was crowned Hereford Queen of America at the 55th Annual National Polled Hereford Convention Show and Sale in Fort Worth, Texas. Twenty-three states had representatives. She was also presented the "Miss Congeniality Award." The charming, beautiful and talented Queen is a Junior at Anderson County High School. We extend our best wishes and hopes that her year's reign will be filled with excitement, happiness, and enriched opportunities that will reflect a creditable representation for the youth of our nation. We honor and applaud Shelia for her national recognition. (Sponsored by Representative Sale)

Orders of the Day

Representative B. Richardson moved that consideration of **HB 208, HB 227, HB 29,** and **HB 51** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 186, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the Committee Amendment No. 1 to **HB 186.** Agreed.

Representative Mann moved that **HB 186,** as amended, be passed.

On the roll call the vote was yeas 81-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright. Nays 0.

HB 186, as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 186,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker resumed the Chair.

Representative B. Richardson moved that consideration of **HB 86** and **SB 117** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 111, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Amendment No. 1 to **HB 111.** Agreed.

Representative Arnold moved that **HB 111,** as amended, be passed.

On the roll call the vote was yeas 84-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 111, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 111,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 234, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 234:**

Amend printed copy of **HB 234,** page 2, lines 14 through 18, to delete the same,

and on page 2, line 21, to delete "*(1)*",

and on page 3, lines 2 through 6, to delete the same,

and on page 5, lines 6 through 10, to delete the same,

and on page 11, lines 11 through 15, to delete the same,

and on page 15, lines 12 through 16, to delete the same,

and on page 16, lines 22 through 26, to delete the same,

and on page 18, lines 3 through 7, to delete the same,

and on page 19, lines 4 through 8, to delete the same.

Agreed.

Representative B. Richardson moved the adoption of the Committee Amendment No. 3 to **HB 234.** Agreed.

Representative B. Richardson moved the adoption of the Committee Amendment No. 2 to **HB 234.** Agreed.

Representative B. Richardson moved that **HB 234,** as amended, be passed.

On the roll call the vote was 61-Adams, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Hancock, Head, Hines, Holbrook, Holloway, Isler, Jones, Kenton, Kidd, Kleier, List, Little, Mann, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Petty, Priddy, Richards, B. Richardson, Riner, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Tobin, Van Horn, Weinberg, Wells, Wilborn, Wright, Yates.

Nays 25-W. Allen, Arnold, Boswell, Brown, Crupper, Dawahare, DeFalaise, Haering, Hurst, Imes, Johnson, Layman, Marcum, May, Maynard, Morris, Overstreet, Patrick, Pearman, Plummer, Rattliff, P. Richardson, Robinson, White, Worthington.

HB 234, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 234,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 244, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 77-Adams, J. Allen, Arnold, Bendl, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McNutt, Morris, Nett, O'Brien, Overstreet, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 3-Imes, Pearman, Tobin.

HB 244 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 244** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 257, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardon moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Beshear moved the adoption of the Committee Amendment No. 1 to **HB 257.** Agreed.

Representative Beshear moved that **HB 257,** as amended, be passed.

On the roll call the vote was yeas 76-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, O'Brien, Overstreet, Petty, Plummer, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 7-W. Allen, Crupper, Hancock, Imes, Jones, Pearman, Schmidt.

HB 257, as amended, was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 257,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 332, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HB 332.** Agreed.

Representative B. Richardson moved that **HB 332,** as amended, be passed.

Representative Gray moved that **HB 332,** as amended, be laid on the Clerk's desk. Agreed.

HB 367 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 367** be passed.

On the roll call the vote was yeas 64-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Layman, List, Little, Mann, May, Maynard, McBee, Morris, Noe, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Schmidt, Siemens, F. Smith, Stone, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 19-W. Allen, Beshear, Cyrus, DeFalaise, DeMarcus, Hines, Jones, Kleier, Lindsay, Marcum, O'Brien, Overstreet, Plummer, Riner, Robinson, Tobin, Trevey, Van Horn, White.

HB 367 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 367** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 375 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 81-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 375 was passed and the title agreed to.

Representative B. Richardson moved that consideration of **HB 377, HB 383, HB 406,** and **HJR 21** be deferred and that they retain their position in Orders of the Day. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 49, HB 126,** and **HCR 12** had been examined and found correctly enrolled. **HB 49, HB 126,** and **HCR 12** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HJR 20 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of **HJR 20.**

On the roll call the vote was yeas 73-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Jones, Kenton, Kidd, Layman, Little, May, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Wells, White, Wilborn, Worthington, Wright. Nays 0.

HJR 20 was adopted and the title agreed to.

Representative Hancock moved that the vote by which **HJR 20** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of making a motion in regard to applying the clincher motion to **HB 375.** Agreed.

Representative B. Richardson moved that the vote by which **HB 375** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

The Speaker Pro Tempore presiding.

SB 8 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 79-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 1-Schmidt.

SB 8 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 8** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 9 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 69-Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kleier, Layman, List, Little, May, Maynard, McBee, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, R. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 9 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 9** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 11 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Gay, Gray, Guy, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kleier, Layman, List, Little, Mann, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 11 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 11** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 12 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 68-Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kleier, List, Little, Mann, May, McBee, Morris, Nett, Noe, O'Brien, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Williams, Worthington, Wright, Yates. Nays 8-Brown, DeFalaise, Imes, Layman, Maynard, Pearman, Plummer, Schmidt.

SB 12 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 12** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative Schmidt moved that the rules be suspended for vote changes. Agreed.

Representative Schmidt moved that vote changes not affecting the outcome be accepted. Agreed.

The following members filed requests in regard to voting: Representative Blandford, change from "yea" to "nay" on **HB 234;** Representative R. Smith, change from "nay" to "yea" on **HB 367;** Representative Kidd, "yea" on **SB 8, SB 9, SB 11, SB 12;** Representative S. Smith, change from "yea" to "nay" on **HB 234.**

SB 14 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 45-J. Allen, Arnold, Bendl, Benson, Beshear, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Head, Hines, Isler, Kenton, Kidd, Kleier, Little, Mann, Marcum, May, McBee, Nett, Noe, Petty, Priddy, Richards, B. Richardson, F. Smith, R. Smith, Stone, Thomas, Tobin, Wells, Wilborn, Worthington. Nays 19-W. Allen, Boswell, Brinkley, Brown, Bruce, Hancock, Holbrook, Imes, Johnson, Layman, Morris, O'Brien, Pearman, P. Richardson, Riner, Robinson, Romines, Van Horn, Wright.

SB 14 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 14** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 15 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 52-Adams, J. Allen, Bendl, Benson, Beshear, Blandford, Boswell, Brinkley, Brown, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Dunn, Foster, Gray, Guy, Head, Hines, Isler, Johnson, Kenton, Kidd, Kleier, Layman, List, Little, Marcum, May, McBee, Nett, Noe, Petty, Priddy, Richards, B. Richardson, Riner, Schmidt, F. Smith, R. Smith, Stone, Thomas, Weinberg, Wells, White, Wilborn, Worthington, Wright. Nays 17-Bennett, Bruce, Burch, Burnette, Donnermeyer, Hancock, Holbrook, Holloway, Imes, Maynard, Morris, O'Brien, Pearman, Plummer, P. Richardson, Tobin, Van Horn.

SB 15 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 15** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 18 taken from Orders of the Day and ordered read at length for the third time. Representative Richards moved that it be read by title only and placed upon its passage.

Representative J. Allen moved that **SB 18** be laid on the Clerk's desk. Rejected.

On the roll call the vote was yeas 47-Adams, Arnold, Bendl, Benson, Beshear, Blandford, Boswell, Clapp, Craddock, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Guy, Hines, Holbrook, Holloway, Isler, Kenton, Kleier, Layman, Little, Marcum, May, McBee, Nett, Noe, O'Brien, Petty, Plummer, Richards, B. Richardson, Riner, Sale, Siemens, R. Smith, Stone, Thomas, Weinberg, White, Wilborn, Williams, Worthington. Nays 27-J. Allen, Bennett, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Cyrus, Gray, Hancock, Head, Imes, Kidd, Maynard, Morris, Patrick, Pearman, Priddy, P. Richardson, Robinson, Romines, Tobin, Trevey, Van Horn, Wells, Wright.

SB 18 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 18** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **SB 19, SB 20, SB 21, SB 25, SB 26, SB 27, SB 31, SB 33, SB 38, SB 41, SB 42, SB 58,** SB 68, and **SB 77** be deferred and that they retain their position in Orders of the Day. Agreed.

The Speaker resumed the Chair.

Representative B. Richardson moved that consideration of **HB 157** be deferred and that it retain its position in Orders of the Day. Agreed.

SB 104 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clapp moved the adoption of the following Floor Amendment No. 3 to **SB 104:**

Amend printed copy of **SB 104,** page 7, by inserting after line 17, the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

No member of the teachers retirement system shall be eligible to receive retirement benefits from such system as long as such person remains employed full time in the teaching profession."

On the roll call the vote was yeas 26-Adams, J. Allen, Arnold, Bennett, Boatwright, Brinkley, Bruce, Burnette, Clapp, Clarke, Craddock, Davenport, DeMarcus, Dunn, Hancock, Holbrook, Hurst, Imes, Kenton, Kleier, Layman, Maynard, O'Brien, Petty, B. Richardson, P. Richardson, Siemens, Stone, Trevey, Wells, Worthington, Wright. Nays 45-Bendl, Beshear, Blandford, Boswell, Brown, Carpenter, Cyrus, Dawahare, Dietz, Foster, Gray, Guy, Haering, Hines, Holloway, Isler, Johnson, Kidd, List, Mann, Marcum, May, McNutt, Morris, Nett, Noe, Patrick, Pearman, Plummer, Priddy, Richards, Riner, Robinson, Sale, Schmidt, F. Smith, R. Smith, Thomas, Tobin, Van Horn, Weinberg, White, Wilborn, Williams, Yates.

The Floor Amendment No. 3 to **SB 104** was rejected.

Representative DeMarcus moved the adoption of the following Floor Amendment No. 4 to **SB 104:**

Amend printed copy of **SB 104,** page 7, line 1, by inserting after "system" and before "to" the words, "*or of combined service in the Kentucky employes retirement system, of which at least two (2) years was creditable service under KRS 161.510 and 161.607(2),*".

Agreed.

Representative Hancock moved the adoption of the following Floor Amendment No. 5 to **SB 104:**

Amend printed copy of **SB 104,** page 7, line 17, by inserting following said the following:

"Section 4. KRS 61.595 is amended to read as follows:

(1) Upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and six-tenths per cent (1.6%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than $240 multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the executive department for finance and administration. If any such members with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph (c), and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than $512.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except [that if the member has attained age 55] there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is twenty-five cents (25¢) greater or less than the amount of the initial retirement payment.

On the roll call the vote was yeas 26-Adams, Arnold, Bendl, Benson, Beshear, Boatwright, Brinkley, Burch, Burnette, DeFalaise, DeMarcus, Hancock, Hines, Hurst, Imes, Kleier, Maynard, McNutt, O'Brien, Pearman, P. Richardson, Robinson, Tobin, Trevey, Van Horn, Wells. Nays 46-J. Allen, Bennett, Blandford, Boswell, Brown, Bruce, Carpenter, Clapp, Clarke, Craddock, Cyrus, Dietz, Donnermeyer, Dunn, Gray, Guy, Haering, Head, Holbrook, Holloway, Isler, Johnson, Kenton, Layman, List, Little, Mann, Marcum, May, McBee, Morris, Noe, Patrick, Plummer, Priddy, Richards, B. Richardson, Riner, Sale, Schmidt, F. Smith, R. Smith, Weinberg, White, Worthington, Yates.

The Floor Amendment No. 5 to **SB 104** was rejected.

Representative Little moved that **SB 104,** as amended, be passed.

On the roll call the vote was yeas 80-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Clarke, Hurst.

SB 104, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **SB 104,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Speaker vacated the Chair.

Speaker Pro Tempore Clapp presiding.

Representative Imes requested that the rules be suspended for the purpose of making a motion. Agreed.

Representative Imes requested that his name be withdrawn as a co-sponsor of **HB 212.** Agreed.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so until 2 p.m., Tuesday, February 21, 1978. Agreed.

Representative McBee moved that the rules be suspended for the purpose of making a motion. Agreed.

Representative McBee requested that he be recorded as voting "yea" on **HB 98.** Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 599, by Representatives Yates, Craddock and Richards: AN ACT relating to real estate brokers and salesmen.

HB 600, by Representative Dawahare: AN ACT making an appropriation.

HB 601, by Representative Dawahare: AN ACT making an appropriation.

HB 602, by Representatives Siemens, Blythe, Bendl, Bennett, Benson, Burch, Dunn, Haering, Hines, Holloway, Kidd, Kleier, Maynard, Nett, Priddy, Riner, Romines, Williams, Wright and Yates: AN ACT relating to recreation systems.

HB 603, by Representatives Kenton, B. Richardson, DeMarcus, Benson, Blandford, Brinkley, Bruce, Clapp, Clarke, Donnermeyer, Dunn, Hancock, Imes, Kleier, Mann, McBee, Rattliff, Schmidt, Wells and Yates: AN ACT relating to general appropriations to the Legislative Research Commission for the operation, maintenance, support, and functioning of the Legislative Branch of government and its agencies of the Commonwealth of Kentucky.

HB 604, by Representative B. Richardson: AN ACT relating to the use of streets and highways.

HB 605, by Representative Van Horn: AN ACT relating to special local peace officers.

HB 606, by Representative Morris: AN ACT relating to cities.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for consideration:

Appropriations and Revenue: **HB 502, HB 546, HB 567, HB 327, HB 441, HB 370.**

Labor and Industry: **HB 551, HB 207.**

Business Organizations and Professions: **HB 455.**

Banking and Insurance: **HB 470.**

Health and Welfare: **HB 497, HB 555, HB 13, HB 77, HB 78, HB 79, HB 80.**

Elections and Constitutional Amendments: **HB 319.**

Public Utilities and Transportation: **HB 262.**

Announcements (continued)

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions: Floor Amendment No. 1 to **HB 332,** Representative Brown; Floor Amendment No. 2 and No. 3 to **HB 332,** Representative Gray; Floor Amendment NO. 4 to **HB 332,** Representative Kleier; Floor Amendment No. 1 to **HB 360,** Representative O'Brien.

Adjournment

Representative B. Richardson moved that the House adjourn until 2 p.m., Tuesday, February 21, 1978.

The House adjourned by voice vote.

MONDAY, FEBRUARY 21, 1978

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Donald R. Turkelson, Chaplain 544thS&S Battalion, Ft. Knox, Kentucky.

The roll was called. All present except Representative McNutt.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 17, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 607, by Representatives B. Richardson and Wright: AN ACT to revise and correct the Kentucky Revised Statutes.

HB 608, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 609, by Representative B. Richardson: AN ACT appropriating money out of the General Expenditure Fund in the State Treasury for the purpose of paying certain claims which have been duly audited and approved according to law but which have not been paid because of the lapsing or insufficiency of former appropriations against which said claims were chargeable.

HB 610, by Representatives B. Richardson and DeMarcus: AN ACT relating to corrupt practices.

HB 611, by Representative Lindsay: AN ACT relating to liens.

HB 612, by Representatives Guy, Little, Mann, McKinney and Noe: AN ACT relating to the teachers' retirement system.

HB 613, by Representatives Deskins and W. Allen: AN ACT relating to farming.

HB 614, by Representative Deskins: AN ACT relating to the red fox.

HB 615, by Representative Deskins: AN ACT relating to the assessment of railway company property.

HB 616, by Representatives Fitzgerald, Carpenter, Beshear, LeMaster, List, Kenton, P. Richardson, Van Horn and Wells: AN ACT relating to thoroughbred horse racing.

HB 617, by Representative Fitzgerald: AN ACT relating to circuit clerks and their deputies.

HB 618, by Representatives Kenton and Van Horn: AN ACT relating to ubran-county governments.

HB 619, by Representative Boatwright: AN ACT relating to county health departments.

HB 620, by Representatives Boatwright and DeMarcus: AN ACT relating to the licensing of motor vehicles.

HB 621, by Representative LeMaster: AN ACT changing the classification of the City of Paris, in Bourbon County.

HB 622, by Representative Clapp: AN ACT relating to the compensation of public officers and employes.

HB 623, by Representatives Bruce, Morris and B. Richardson: AN ACT relating to motor vehicles.

HB 624, by Representative Patrick: AN ACT relating to retirement benefits.

HB 625, by Representative Richards: AN ACT establishing the Kentucky Higher Education Student Loan Corporation.

HB 626, by Representative Richards: AN ACT relating to the Teachers' Retirement System of the State of Kentucky.

HB 627, by Representative Richards: AN ACT relating to the establishment of the Kentucky School Building Authority.

HB 628, by Representatives Mann, McBee and Donnermeyer: AN ACT relating to joint recreational, tourist and convention commissions.

HB 629, by Representatives Donnermeyer, Gray, Gyrus and Dietz: AN ACT relating to unemployment compensation.

HB 630, by Representatives Schmdit, Dietz, DeFalaise, Isler and Petty: AN ACT relating to transportation.

HCR 63, by Representatives Burnette and Wright: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to reject any and all proposals originating from whatever source which advocate an extension of the seven year time period during which the several states may ratify the proposed amendment to the Constitution of the United States relative to equal rights for men and women.

Senate Message

Announcing passage of **SB 72, SB 149, SB 184, SB 206.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees have referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 600, HB 601, HB 603, SB 134.**

Business Organizations and Professions: **HB 583, HB 599.**

Cities: **HB 606.**

Counties and Special Districts: **HB 602.**

Education: **SB 13.**

Elections and Constitutional Amendments: **HB 585.**

Health and Welfare: **SB 200.**

Highways and Traffic Safety: **HB 584, HB 592, HB 604.**

Judiciary-Statutes: **HB 587, HB 605.**

Labor and Industry: **SB 148.**

Public Utilities and Transportation: **SB 94, SB 186.**

State Government:**HB 586, HB 588, HB 589, HB 590, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598, HCR 62.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **HB 9, HB 544, HB 526, HB 582.**

Counties and Special Districts: **HB 506.**

Agriculture and Natural Resources: **HB 540, HB 534, HB 384, HB 310.**

Elections and Constitutional Amendments: **HB 420, HB 444, HB 515, HB 549, HB 550, HJR 52.**

Highways and Traffic Safety: **SB 114, SB 118, HB 413, HB 206.**

Judiciary-Statutes: **HB 482, HB 483, HB 575, HB 493, HB 499, HB 501, SB 162. HB 334** withdrawn from Committee consideration.

Education: **HB 368, SB 181, SB 198.**

Health and Welfare: **HB 510, HB 562.**

Banking and Insurance: **SB 225.**

Report of Committees

The Committee on Rules reported **HB 33, HB 239, HB 247, HB 393, HB 41, HB 211, HB 231, HB 280, HB 297, HB 395, HB 75, HB 162, SB 132, SB 36, SB 40, SB 153, HR 14,** and **HJR 16** have been posted for passage in Orders of the Day, February 21, 1978.

The Committee on Rules reported **HJR 6** has been recommitted to the Committee on Appropriations and Revenue for coordination with the budget.

The Committee on Banking and Insurance reported **HB 266, HB 337, HB 445, HB 471,** and **HB 481** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 266, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 17 IS CREATED TO READ AS FOLLOWS:

(1) All individual health insurance policies providing coverage on an expense incurred basis shall provide coverage for health care treatment or services rendered by ambulatory surgical centers approved by the Kentucky health facilities and health services certificate of need and licensure board. The health coverage for health care treatment or services rendered by an ambulatory surgical center shall be on the same basis as coverage provided for the same health care treatment or services rendered by a hospital.

(2) The requirements of this section shall apply to all health insurance policies delivered or issued for delivery in this state on and after October 1, 1978.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 18 IS CREATED TO READ AS FOLLOWS:

(1) All group or blanket health insurance policies and certificates issued thereunder providing coverage on an expense incurred basis shall provide coverage for health care treatment or services rendered by ambulatory surgical centers approved by the Kentucky health facilities and health services certificate of need and licensure board. The coverage for health care treatment or services rendered by an ambulatory surgical center shall be on the same basis as coverage provided for the same health care treatment or services rendered by a hospital.

(2) The requirements of this section shall apply to all insurance policies, and certificates issued thereunder, delivered or issued for delivery in this state on and after October 1, 1978.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 32 IS CREATED TO READ AS FOLLOWS:

(1) All individual or group service or indemnity type contracts and all certificates thereunder issued by a nonprofit corporation shall provide coverage for health care treatment or services rendered by ambulatory surgical centers approved by the Kentucky health facilities and health services certificate of need and licensure board. The coverage for health care treatment or services rendered by an ambulatory surgical center shall be on the same basis as coverage provided for the same health care treatment or services rendered by a hospital.

(2) The requirements of this section shall apply to all member or subscriber contracts and all certificates thereunder, delivered or issued for delivery in this state on or after October 1, 1978.

HB 337, AN ACT relating to self-insured private employer group health plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any private employer doing business in this state who provides for his employes on a self-insured basis, hospital or surgical benefits, other than for specific diseases or accidental injury only, shall purchase a conversion health insurance policy. Upon the termination of the employment of any employe who has been continuously employed for not less than six months immediately preceding the termination, the employe shall be entitled to have issued to him by the insurer, without evidence of insurability, a health insurance policy on a form then available for conversion from the health benefit plan provided by the employer by making written application therefor, accompanied by the first quarterly, semi-annual or annual premium, at the option of the employe to the employer not later than thirty-one days after such termination.

(2) The individual health insurance policy available as provided in subsection (1) shall cover the employe and his dependents for whom the employer provided health or surgical benefits on the date the employment was terminated. The effective date of any such individual policy shall be the date of the termination of the employment.

(3) The employe shall not be entitled to be issued a converted policy upon termination of employment if he is or could be covered by Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded). Furthermore, the employe shall not be entitled to be issued a converted policy if (a) such person is covered for similar benefits by another hospital or surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program or (b) similar benefits are provided for, or are available to, such person pursuant to, or in accordance with the requirements of any statute, and the benefits provided or available under any of the sources referred to in (a) and (b) above for such employe, together with the converted policy, would result in over insurance according to the employer's standards relating to policies converted from the hospital or surgical benefits provided by the employer.

(4) The surviving spouse, at the death of an employe, shall be entitled to be issued a converted policy with respect to the spouse and such children whose coverage under the employer's hospital or surgical benefits terminates by reason of the death of an employe.

(5) If an employe or employe's spouse becomes entitled to obtain a converted policy pursuant to the foregoing provisions, and if such person has not been given written notice of the existence of the conversion privilege stated above, within 31 days of termination of the group coverage, then in such event the person shall have an additional period within which to exercise the conversion privilege. This additional period shall expire 15 days after the person shall have been given said notice but in no event shall the additional period extend beyond 60 days after the expiration of the 31-day conversion period stated above. Written notice presented to the person or mailed by the employer to the last known address of the person or mailed by the insurer to the last known address of the person as furnished by the employer shall constitute the giving of notice for the purpose of this paragraph. If an additional period is allowed the person for exercise of the conversion privilege as provided herein, and if written application for the converted policy, accompanied by the first quarterly or semiannual or annual premium, is made after the expiration of the 31-day conversion period stated above, but within the additional period allowed an employe or spouse in accordance with this paragraph, the effective date of the converted policy shall be the date of termination of employment.

SECTION 2. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A converted policy issued pursuant to the conversion privilege provided in this Act providing hospital or surgical expense insurance shall provide on an expense incurred basis, the following minimum benefits:

(a) Hospital room and board benefits of twenty-five dollars per day, for a minimum duration of seventy days for any one period of hospital confinement as defined in the converted policy.

(b) Miscellaneous hospital expense benefits for any one period of hospital confinement in a minimum amount up to twenty times the hospital room and board daily benefit provided under the converted policy.

(c) Surgical operation expense benefits according to a relative value schedule, or a minimum of $250.

(2) The relative values in the surgical schedule shall be consistent with the Schedule of Operations generally offered by the insurer under group or individual health insurance policies. In the event that the insurer and the employer agree upon one or more additional plans of benefits to be available for converted policies, the applicant for the converted policy may, at his option, elect such a plan in lieu of a converted policy providing the benefits of (a), (b) and (c) in subsection (1). In no event shall the benefits be less than the minimums set forth in subsection (1) of this section.

(3) In no event need the insurer provide under the converted policy: (a) benefits on account of pregnancy, childbirth, miscarriage, abortion, or complications of any thereof, (b) the benefits of (a) and (b) of subsection (1) above, unless the group policy from which conversion is made provided hospital expense insurance benefits, or (c) the benefits of (c) of subsection (1) above, unless the group policy provided surgical expense insurance benefits. Furthermore, the converted policy may contain any exclusion, reduction, or limitation contained in the group policy and any exclusion, reduction or limitation customarily used in individual policies issued by the insurer. With respect to any person who was covered by the group policy, the period specified in the Time Limit on Certain Defenses of the Incontestable provision of the converted policy shall commence with the date the insurance on such person or member became effective under the group policy.

(4) The converted policy may provide that any hospital, surgical, or medical expense benefits otherwise payable thereunder with respect to any person covered thereunder may be reduced by the amount of any such benefits payable under the group policy for the same loss with respect to such person after termination of such person's coverage thereunder. The insurer shall not be entitled to use deterioration of health as the basis for refusing to renew a converted policy. The converted policy may provide for termination of coverage thereunder on any person when he is or could be covered by Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded).

(5) A converted policy may include a provision whereby the insurer may request information in advance of any premium due date of such policy of any person covered thereunder as to whether (a) he is covered for similar benefits by another hospital, surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program or (b) similar benefits are provided for, or available to, such person pursuant to, or in accordance with the requirements of, any statute. If any such person is so covered or such statutory benefits are provided or available, and such person fails to furnish the insurer the details of such coverage within thirty-one days after the date of such request, the benefits payable under the converted policy may be based on the hospital or surgical or medical expenses actually incurred after excluding expenses to the extent of the amount of benefits provided or available therefor from any of the sources referred to in (a) and (b) above. A converted policy may contain any provisions permitted herein and may also include any other provisions not expressly prohibited by law; and any provision required to be permitted herein may be made a part of any such policy by means of an endorsement or rider.

Section 3. KRS 304.32-030 is amended to read as follows:

(1) Any nonprofit corporation organized under the laws of this state for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby hospital care, medical-surgical care, dental care, and other health services are made available to persons who become subscribers to such plan or plans under a contract with the corporation, shall be subject to and be governed by the provisions of this subtitle, and shall be exempt from all other provisions of this code, except as herein expressly provided in KRS 304.32-270, and no insurance law hereafter enacted shall be deemed to apply to such corporations unless they be specifically referred to therein.

(2) *Except as provided in this Act,* the provisions of this subtitle shall not apply to any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations.

SECTION 4. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any private employer doing business in this state who provides for his employes on a self-insured basis hospital or surgical benefits shall notify the department of insurance of the existence of the program within sixty (60) days of the effective date of this Act. Any employer doing business in this state who implements for his employes on a self-insured basis a plan for providing hospital or surgical benefits shall notify the department of insurance not less than thirty (30) days prior to implementing such plan.

SECTION 5. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any private employer who is subject to the provisions of Section 1 of this Act and who fails to purchase a conversion health insurance policy as required by subsection (1) shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), and each day that a private employer fails to purchase a conversion policy as required herein shall constitute a separate offense.

(2) Any private employer who is subject to the provisions of Section 4 of this Act and who fails to give to the department of insurance the notice therein required shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each day that an employer fails to give notice after the date on which notice is required shall constitute a separate offense.

HB 445, AN ACT relating to insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1.KRS 304.13-030 is amended to read as follows:

(1) Rates shall be made in accordance with the following provisions:

(a) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

(b) Rates shall not be excessive, inadequate or unfairly discriminatory;

(c) Due consideration shall be given:

1. To past and prospective loss experience within and outside this state;
2. To the conflagration and catastrophe hazards;
3. To a reasonable margin for underwriting profit and contingencies;
4. To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;
5. To past and prospective expenses both country wide and those specially applicable to this state;
6. To all other relevant factors within and outside this state; and
7. In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent three-year period for which such experience is available;

(d) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(e) Risks may be grouped by classifications for the establishment of rates and minimum premiums *except as provided in paragraph (f) of this subsection.* Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which may have a probable effect upon losses or expenses.

(f) As to insurance for private passenger automobiles, no classification shall be based, in whole or in part, directly or indirectly, upon the age or sex of the insured if the driving record of the insured for the past two (2) years does not consist of a record of a chargeable accident, or a conviction for a moving traffic violation, or any combination thereof.

(2) Except to the extent necessary to meet the provisions of paragraph (b) of subsection (1) of KRS 304.13-030, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(3) Rates made in accordance with this section may be used subject to this subtitle.

HB 471, AN ACT relating to assets and liabilities of insurance companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.6-020 is amended to read as follows:

The following expressly shall not be allowed as assets in any determination of the financial condition of an insurer:

(1) Good will, trade names and other like intangible assets.

(2) Advances to officers or directors (other than policy loans) whether secured or not, and advances to employes, agents and other persons on personal security only.

(3) Stock of such insurer, owned by it, or any equity therein or loans secured thereby [, or any proportionate interest in such stock acquired or held through the ownership by such insurer of an interest in another firm, corporation or business unit]. Any such stock owned by such insurer shall be held as treasury stock and be deducted from the total issue of outstanding shares.

(4) Furniture, fixtures, furnishings, safes, vehicles, libraries, stationery, literature and supplies (other than equipment authorized under subsection (1) of KRS 304.6-010, except in the case of title insurers such materials and plants as the insurer is expressly authorized to invest in under paragraph (k) of subsection (1) of KRS 304.6-010 and except, in the case of an insurer, such personal property as the insurer is permitted to hold pursuant to subtitle 7 or which is reasonably necessary for the maintenance and operation of real estate lawfully acquired and held by the insurer, other than real estate used by it for home office, branch office and similar purposes.

(5) The amount, if any, by which the aggregate book value of investments as carried in the ledger assets of the insurer exceeds the aggregate value thereof as determined under this code.

HB 481, AN ACT to establish a legal professional liability joint underwriting association.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 304, SUBTITLE 40,IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The declaration of legislative policy of this Act is as follows:

It is hereby declared by the general assembly of the Commonwealth of Kentucky that the availability of legal professional liability insurance for attorneys at law is a necessity; and without such insurance, legal services may be severely curtailed; and that while the need for such insurance is increasing, the supply is not adequate and is likely to become less adequate in the future; and that present plans to provide adequate legal professional liability insurance in Kentucky have not been sufficient to meet the needs of our citizens. It is further declared that the Commonwealth has an obligation to provide an equitable method whereby every insurer licensed to write personal liability insurance in Kentucky be required to meet this market demand. It is the purpose of this article to define this obligation and provide a mandatory program to assure an adequate supply of legal professional liability insurance coverage in the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Association" means the Joint Underwriting Association established pursuant to the provisions of this chapter.

(2) "Legal professional liability insurance" means insurance as defined in KRS 304.5-070(1)(q).

(3) "Commissioner" means the commissioner of insurance.

(4) "Net direct premiums" means gross direct premiums written on the lines of insurance set forth in subsection (1) of Section 3 of this Act as computed by the commissioner of insurance, less return premiums for the unused or unabsorbed portions of premium deposits.

SECTION 3. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) A temporary Joint Underwriting Association is created, consisting of all insurers authorized to write and engage in writing in the Commonwealth on a direct basis the following lines of insurance, as reported in the companies' annual statements:

(a) Workmen's compensation;

(b) Liability other than auto;

(c) Private passenger auto liability;

(d) Commercial auto liability; and

(e) The liability portion of commercial multi-peril policies.

Every such insurer shall remain a member of the Joint Underwriting Association as a condition of its authority to continue to transact such kinds of insurance in the Commonweatlh.

(2) The implementation of the operation of the Joint Underwriting Association shall become effective upon the order of the commissioner. The commissioner shall not order the association to commence underwriting operations until he, after due hearing and investigation, has determined that legal professional

laibility insurance cannot be made available in the voluntary market. The Joint Underwriting Association shall remain in effect for a period of no longer than two and one-half (2 1/2) years from the date that it commences underwriting operations.

This Act shall not preclude any attorney at law from procuring legal professional liability insurance from the voluntary market.

If the commissioner determines at any time that legal professional liability insurance is readily available in the voluntary market, the association shall thereby cease its underwriting operations.

(3) The association shall, pursuant to the provisions of this Act and the plan of operation with respect to legal professional liability insurance, have the power on behalf of its members:

(a) To issue, or to cause to be issued, policies of insurance to applicants, including incidental coverages and subject to limitations as specified in the plan of operation, but not to exceed five hundred thousand dollars ($500,000) for each claimant under one (1) policy and one $1 million ($1,000,000) for all claimants under one (1) policy in any one (1) year;

(b) To underwrite such insurance and to adjust and pay losses with respect thereto, or to appoint service companies to perform those functions;

(c) To assume reinsurance from its members;

(d) To cede reinsurance; and

(e) To negotiate and obtain in the voluntary market legal professional liability insurance with limits in excess of the foregoing limits for any attorney at law to whom the association has issued or caused to be issued a policy of legal professional liability insurance.

SECTION 4. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) Within forty-five (45) days following the order of the commissioner implementing the operation of the association, the directors of the association shall submit to the commissioner for his review a proposed plan of operation, consistent with the provisions of this chapter.

(2) The plan of operation shall provide for economic, fair, and non-discriminatory administration and for the prompt and efficient provision of legal professional liability insurance; and shall contain other provisions including, but not limited to, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers or other servicing arrangements and procedures for determining amounts of insurance to be provided by the association.

(3) The plan of operation shall be subject to approval by the commissioner after consultation with the members of the association, representatives of the public, and other affected individuals and organizations. If the commissioner disapproves all or any part of the proposed plan of operation, the directors shall within fifteen (15) days submit for review an appropriate revised plan of operation or part thereof. If the directors fail to do so, the commissioner shall promulgate a plan of operation or part thereof, as the case may be. The plan of operation approved or promulgated by the commissioner shall become effective upon order of the commissioner.

(4) Amendments to the plan of operation may be made by the directors of the association, subject to the approval of the commissioner, or shall be made at the direction of the commissioner.

SECTION 5. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) All policies issued by the association shall be written for the term of one year. The directors of the association may elect to issue policies on an occurrence basis or a claims made basis. No policy form shall be used by the association unless it has been filed with the commissioner and either (a) he has approved it, or (b) thirty (30) days has lapsed and he has not disapproved it in accordance with KRS Chapter 304, subtitle 14.

(2) Cancellation of the association's policies shall be governed by the laws and regulations governing the cancellation of other policies of casualty insurance, except that the association may also cancel any of its policies in the event of nonpayment of any stabilization reserve fund charge, by mailing or delivering to the insured at the address shown on the policy, written notice stating when not less than ten (10) days thereafter cancellation shall be effective.

(3) The rates, rating plan, rating rules, rating classifications and territories applicable to the insurance written by the association and statistics relating thereto shall be subject to KRS Chapter 304, subtitle 13, giving due consideration to the past and prospective loss and expense experience for legal professional liability insurance written and to be written in this state, trends in the frequency and severity of losses, the investment income of the association, and such other information as the commissioner may require. All rates shall be on an actuarially sound basis, giving due consideration to the group retrospective rating plan and the stabilization reserve fund, and shall be calculated to be self-supporting. The commissioner shall make available to the

association the loss and expense experience of insurers previously writing legal professional liability insurance in this state.

(4) All policies issued by the association shall be subject to a nonprofit group retrospective rating plan to be approved by the commissioner, under which the final premium for all policyholders of the association as a group will be equal to the administrative expenses, loss and loss adjustment expenses and taxes, plus a reasonable allowance for contingencies and servicing. Policyholders shall be given full credit for all investment income, net of expenses and a reasonable management fee on policyholder supplied funds. The standard premium before retrospective adjustment for each policy issued by the association shall be established on the basis of the association's rates, rating plans, rating rules, rating classifications, and territories then in effect. The maximum final premium for all policyholders of the association as a group shall be limited as provided in subsection (4) of Section 6 of this Act. Since the business of the association is subject to the nonprofit group retrospective rating plan required by this subsection, there shall be a presumption that the rates filed and premiums for the business of the association are not excessive.

(5) The commissioner shall examine the business of the association as often as he deems appropriate to assure that the group retrospective rating plan is being operated in a manner consistent with this section. If he finds that it is not being so operated, he shall issue an order to the association, specifying in what respects its operation is deficient and stating what corrective action shall be taken.

(6) The association shall certify to the commissioner the estimated amount of any deficit remaining after the stabilization reserve fund has been exhausted in payment of the maximum final premium for all policyholders of the association. Within sixty (60) days after such certification, the commissioner shall authorize the members of the association to commence recoupment of their respective shares of the deficit by applying a surcharge to be determined by the association at a rate not to exceed two percent (2%) of the annual premiums on future policies affording those kinds of insurance which form the basis for their participation in the association under procedures established by the association. The association shall amend the amount of its certification of deficit to the commissioner as the values of its incurred losses become finalized, and the members of the association shall amend their recoupment procedure accordingly.

(7) In the event that sufficient funds are not available for the sound financial operation of the association, pending recoupment as provided in subsection (6) of this section, all members shall, on a temporary basis, contribute to the financial requirements of the association in the manner provided for in Section 8 of this Act. Any such contribution shall be reimbursed to the members by recoupment as provided in subsection (6) of this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a stabilization reserve fund which shall be administered by three (3) directors, one (1) of whom shall be the commissioner or his deputy. The remaining two (2) directors shall be appointed by the commissioner. ONe (1) shall be a representative of the association; the other a representative of its policyholders. The directors shall serve without salary, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties when approved by the commissioner.

(2) Each policyholder shall pay to the association a stabilization reserve fund charge equal to one-third of each premium payment due for insurance through the association. Such charge shall be separately stated in the policy. The association shall cancel the policy of any policyholder who fails to pay the stabilization reserve fund charge.

(3) The association shall promptly pay to the trustee of the fund all stabilization reserve fund charges which it collects from its policyholders and any retrospective premium refunds payable under the group retrospective rating plan authorized by this Act.

(4) All monies received by the fund shall be held in trust by a corporate trustee selected by the directors. The trustee may invest the trust fund, subject to the approval of the directors. All investment income shall be credited to the fund. All expenses of administration of the fund shall be charged against the fund. The trust fund shall be used solely for the purpose of discharging when due any retrospective premium charges payable by policyholders of the association under the group retrospective rating plan authorized by this Act. Payment of retrospective premium charges shall be made by the directors upon certification to them by the association of the amount due. If the trust fund is finally exhausted in payment of retrospective premium charges, all liability and obligations of the association's policyholders with respect to the payment of retrospective premium charges shall thereupon terminate and shall be conclusively presumed to have been discharged. Any monies remaining in the fund after all such retrospective premium charges have been paid shall be returned to policyholders under procedures authorized by the directors.

SECTION 7. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) Any attorney at law shall, on or after the effective date of the plan of operation, be entitled to apply

to the association for legal professional liability insurance coverage. Such application may be made on behalf of an applicant by an agent authorized by the applicant.

(2) If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation and there is no unpaid, uncontested premium due from the applicant for prior insurance, then the association, upon receipt of the premium or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of legal professional liability insurance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

All insurers which are members of the association shall participate in its writings, expenses, servicing, allowance, management fees, and losses in the proportion that the net direct premiums of each such member, excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year, bears to the aggregate net direct premiums written in this state by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements and other reports filed by the insurer with the commissioner.

SECTION 9. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

The association shall be governed by a board of thirteen (13) directors. Five (5) directors shall be elected by the insurance companies which are members of the association, at a meeting of the member companies at a time and place designated by the commissioner, by cumulative voting of the member companies, whose vote shall be weighted in accordance with each member's net direct premiums written during the preceding calendar year. One (1) of these five (5) directors shall be from a member company domiciled in Kentucky. The commissioner shall appoint seven (7) directors, one (1) named by the Kentucky medical association; one (1) named by the Kentucky bar association; one (1) named by the Kentucky hospital association; one (1) who is a licensed resident property and casualty agent in Kentucky; and three (3) knowledgeable members of the public at large, who have no interest in any of the foregoing categories. The commissioner or his designee shall serve as a director.

SECTION 10. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

(1) Any applicant to the association, any person insured pursuant to this Act, or their representatives, or any affected insurer, may appeal to the commissioner within thirty (30) days after any rule, action, or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters.

(2) All orders of the commissioner made pursuant to this article are subject to appeal to the Franklin circuit court in accordance with KRS Chapter 304, subtitle 2.

SECTION 11. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

The association shall file in the office of the commissioner annually, on or before the first day of each March, a statement containing information with respect to its transactions, condition, operations, and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the commissioner. The commissioner may at any time require the association to furnish additional information with respect to its transactions, condition, or any matter connected therewith considered to be material and of assistance in evaluating the scope, operation, and experience of the association.

SECTION 12. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted and the report thereon filed in the manner prescribed in KRS Chapter 304, subtitle 2. The expenses of such examinations shall be paid by the association in the manner prescribed by that said chapter.

SECTION 13. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

There shall be no liability on the part of, and no cause of action of any nature shall arise against the association, the commissioner or his authorized representatives or any other person or organization, for any statements or actions made in good faith by them during any proceedings or concerning any matters within the scope of this Act.

SECTION 14. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 40, IS CREATED TO READ AS FOLLOWS:

No member of the board of directors of the stabilization reserve fund who is otherwise a public officer or employe shall suffer a forfeiture of his office or employment or any loss or diminution in the rights and privileges appertaining thereto, by reason of membership on the board of directors of the stabilization reserve fund.

The Committee on Counties and Special Districts reported **HB 152** with Committee Substitute attached thereto, **HB 398**, and **HB 399** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 152, AN ACT relating to the powers and functions of county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, the following words shall have the following meanings:

(1) "County ordinance" means (a) an official written act of a fiscal court, the effect of which is general and lasting in nature, which is enforceable within the jurisdiction of the county; or (b) a lawful appropriation of money.

(2) "Summary" means a concise written narrative covering the main points of any official statement, certified as to its accuracy by the fiscal court and written in a way calculated to inform the public clearly of its contents. Summaries may be written for but are not limited to resolutions and ordinances.

Section 2. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) [(1)] Appropriate county funds *according to the provisions of KRS 68.210 through 68.360 for lawful purposes* [authorized by law to be appropriated];

(b) [(2)] Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. [, such as courthouses, clerk's offices, poorhouses, jails and workhouses, or for the care and support of paupers; or] The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

[(3) Erect and keep in repair necessary public buildings;

(4) Secure a sufficient jail and a comfortable and convenient place for holding court at the county seat;

(5) Erect, keep in repair and superintend bridges and other structures;

(6)]*(c)* Regulate and control the fiscal affairs [and property] of the county;

(d) [(7)] Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services [, not to exceed $7,200 per annum];

[(8) Make provision for the maintenance of the poor, provide a poorhouse and poor farm, appropriate county funds for the benefit of infirmaries for the sick located in the county, provide for the care, treatment and maintenance of the sick and poor and provide a hospital for that purpose, or contract with any hospital in the county to do so;

(9) Provide for the good condition of the highways in the county;

(10) Appropriate county funds to make provision to secure immigration into the county and to advertise the resources of the county;

(11) Appropriate county funds for the benefit of colleges located in the county, or colleges located in adjoining counties;

(12) Execute all of its orders consistent with law and within its jurisdiction of all such other matters relating to the levying of taxes as is conferred on the fiscal court by law;]

(e) [(13)] Exercise all the corporate powers of the county unless otherwise provided by law; [and

(14) Cause the construction or reconstruction of access roads when, in the opinion of the fiscal court after receiving the recommendation of the county road engineer, the construction or reconstruction of the access roads would serve as an inducement to industrial location or a substantial expansion of industry, and

the estimated cost of the project is less than twenty-five thousand dollars ($25,000).]

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 3. KRS 67.083 is amended to read as follows:

(1) It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.

(2) The fiscal court of any county is hereby authorized [and empowered to exercise all the rights, powers, franchises, and privileges including the power] to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted [, which the fiscal court shall deem requisite for the health, education, safety, welfare, and convenience of the inhabitants of the county and for the effective administration of the county government to the same extent as if the general assembly had expressly granted and delegated to the fiscal court all the authority that is within the power of the general assembly to grant to the fiscal court of said counties].

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) Facilitating the construction of new housing; causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Management of solid wastes and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and agricultural extension programs;

(r) Provision of public utilities including but not limited to water, sewage disposal, gas and electricity;

(s) Licensing or franchising of public utilities, including but not limited to cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions.

(4) [(2)] The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to [subsection (1) of] this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation.

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard.

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute, or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance, or

(c) It can be demonstrated to reasonable persons that conditions requiring the exercise of police power vary substantially between or among defined geographic areas of the county.

(8) [(3)] The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed *to be* exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative *or supplement* thereto.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No action embraced in the term "county ordinance" may be taken except by passage of a county ordinance. Other official actions, including but not limited to approvals required by the fiscal court, may be taken by resolution, order or motion;

(2) All ordinances shall be introduced in writing;

(3) No county ordinance shall relate to more than one subject, and each ordinance shall be prefaced in the following manner by a title which expresses that subject: "AN ORDINANCE relating to (the subject of the ordinance):";

(4) There shall be inserted between the title and the body of each county ordinance an enacting clause written in the following manner: "Be it ordained by the fiscal court of county of , Commonwealth of Kentucky:";

(5) County ordinances shall be amended by ordinance and only by setting out in full each amended section;

(6) No action of a fiscal court shall be invalidated because of improper denomination of a county ordinance or other written document, if the procedures required for taking the action have otherwise been observed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No county ordinance shall be passed until it has been read on two separate days, but ordinances may be read by title and a summary only.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. In the event consideration for passage is continued from the initial meeting to a subsequent date, no further publication is necessary provided that at each meeting the time, date and place of the next meeting is announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. Where applicable a sketch, drawing or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety and other self contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by statute, a majority of a fiscal court shall constitute a quorum and a majority of a quorum shall be sufficient to take action, except that a majority of the fiscal court shall be required to pass an ordinance.

(2) A majority of the fiscal court may declare an emergency to exist by naming and describing the emergency, and thereafter may adopt a county ordinance to address that emergency without regard to the requirements of Section 5 of this Act.

(3) All county ordinances and other official actions shall state the effective date thereof.

Section 7. KRS 67.040 is amended to read as follows:

(1) The fiscal court of each county shall consist of the county judge/executive [, or in his absence the county judge/executive pro tem,] and the justices of the peace of the county; or of the county judge/executive [, or in his absence the county judge/executive pro tem,] and three (3) county commissioners elected under KRS 67.050 and 67.060.

(2) The county judge/executive [, or in his absence the county judge/executive pro tem,] shall preside, if present. [If neither the county judge/executive nor the county judge/executive pro tem is present or cannot preside,] A majority of the justices of the peace or commissioners shall elect one (1) of their number to preside during the absence or inability of the county judge/executive [or county judge/executive pro tem] to preside. [The county judge/executive, or the county judge/executive pro tem or justice presiding in his place, shall preserve order, and may fine and imprison for contempt of court in the same manner as the presiding judge of the county court.]

[(3) Not less than a majority of the members of the fiscal court shall constitute a quorum for the transaction of business. No proposition shall be adopted except with the concurrence of at least a majority of the members present.]

(3) [(4)] When there is a tie vote in the fiscal court in the selection of any officer or employe to be selected by the fiscal court, and a deadlock results and continues for fifteen (15) days or longer, the county judge/executive shall cause to be entered upon the minutes of the fiscal court an order reciting the facts as to the deadlock, and the question upon which it has occurred and exists, and thereupon, the county judge/executive shall make such appointment.

Section 8. KRS 67.100 is amended to read as follows:

(1) The fiscal court is a court of record. *Minutes of the proceedings of each meeting shall be prepared and submitted for approval at the next succeeding meeting.*

(2) Every official action of the fiscal court shall be made a part of the permanent records of the county.

(3) The county budget ordinance shall be indexed so that each index list covers one fiscal year and shall be listed in such index no later than thirty days after passage and any required approval.

(4) County ordinances other than the county budget ordinance shall be indexed in a composit index of all county ordinances in force, and shall be listed in the index no later than thirty days after passage and any required approval.

(5) A copy of all records required by this section shall be kept in the office of the county court clerk.

[Before each adjournment, the minutes of the proceedings of the fiscal court shall be publicly read by the clerk of the court, and corrected if necessary, and shall be signed by the presiding judge, with the approval of the justices of the peace or county commissioners who were present when the court was held.

(3) No minute or order of the fiscal court shall be valid until read and signed as required by subsection (2), nor unless the record shows by whom the court was held.]

Section 9. KRS 67.120 is amended to read as follows:

[(1) Except in counties containing a city of the first class, the county court clerk shall be clerk of the fiscal court. He shall attend its sessions and keep a full and complete record of all its proceedings, with a proper index. For his services as clerk of the fiscal court he shall receive an annual salary fixed at a reasonable amount by the fiscal court and paid in monthly instalments out of the county treasury. The salary must be fixed not later than the first Monday in May in the year in which county clerks are elected.

(2)] The fiscal court of each county in this commonwealth [in which there is located a city of the first class] shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the court, together with a complete index, and who in addition shall perform such duties as may be required of them by the court. The fiscal court shall [, on or before July 1 every four (4) years, beginning with 1920,] appoint a clerk who shall *serve at the pleasure of the fiscal court* [hold his office for a term of four (4) years, commencing on July 1]. The clerk shall execute bond to be approved by the fiscal court. He shall receive an annual salary which shall be fixed by the court and paid in monthly instalments out of the county levy. The court may appoint a deputy and a stenographer who shall qualify by taking the constitutional oath and who shall serve at the will of the court. The salary of the deputy clerk and the stenographer shall be fixed by the court and paid in monthly instalments out of the county levy.

Section 10. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate. [The jailer of each county having a population of less than seventy-five thousand (75,000) and not having a city of the second class shall be superintendent of the public square and of all county buildings at the county seat.] The fiscal court of each *county* [of said counties] shall annually appropriate a sum sufficient to purchase the labor and materials necessary to *maintain and operate county* [heat and light such] property, including the jailer's residence if owned by the county, and to keep *the jailer's residence* [it] in repair and in clean, comfortable and presentable condition. *Any* [The] sum [so] appropriated *for maintenance and operation of the jailer's residence* shall be expended by the jailer. The *county attorney* [jailer] shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 11. KRS 67.140 is amended to read as follows:

[In counties containing a city of the second class wherein the circuit court is always held at the county seat,] The fiscal court [shall have the care and custody of the courthouse at the county seat, the courtrooms and offices therein, and the public grounds adjacent thereto, and] shall have authority and jurisdiction to levy and collect property taxes necessary for the purpose of keeping and maintaining the courthouse and grounds in proper condition and repair, to prevent injury thereto, to keep them in a proper state of cleanliness and sanitation, to provide heat and lights for them, and to provide sufficient water for the courts and offices therein.

Section 12. KRS 67.170 is amended to read as follows:

The jailer of each county shall take charge of and carefully preserve all furniture, bedding and similar property belonging to the [courthouse and] jail *and any other county property at the county seat for which he may act as superintendent.* The jailer shall be liable to the county upon his official bond for the value of any such property lost or destroyed by reason of his negligence or fault, and the county may enforce this liability by notice and motion in the county court.

Section 13. KRS 208.130 is amended to read as follows:

(1) The fiscal court of each county *may* [shall] provide for a suitable facility or facilities for the custody and care of children held in custody pending disposition of their cases by the juvenile court, and may employ necessary personnel for the operation thereof.

(2) In counties containing a city of the first or second class, the fiscal court *may* [shall] maintain a permanent detention home, either through arrangement with another public agency or with a private organization or agency, or by acquiring and operating the home as a county institution.

(3) In counties other than those containing a city of the first or second class, the fiscal court *may* [shall] either maintain a detention home or arrange for the use of private or family homes.

(4) The department may assist the counties in the acquisition, development and furnishing of detention facilities, and may employ available funds for that purpose. The detention facilities may be subject to the supervision of the department, and shall conform to rules and regulations prescribed by the department.

(5) Each detention facility shall be conducted under the jurisdiction of the juvenile court for which it is maintained and each child detained in such facility shall be deemed to be under the jurisdiction of the court.

(6) The fiscal court of any county may arrange with the department for the use of its regional reception-diagnostic centers for those cases pending before the juvenile court of its county. The fiscal court is authorized to make such payments as agreed upon with the department for the use of the services and facilities. The use

of the department's regional reception-diagnostic centers by the individual juvenile courts shall not give such juvenile courts jurisdiction over the department's regional reception-diagnostic centers.

Section 14. KRS 247.080 is amended to read as follows:

[Fiscal courts and] County boards of education may appropriate such sums of money out of their annual funds as in their wisdom are necessary to aid in carrying on extension work in agriculture and home economics in their respective counties, in connection with the University of Kentucky.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The repeal of any statute granting permissive power or authority to counties shall not be construed to limit any power or authority which may be exercised by a fiscal court pursuant to KRS 67.083.

Section 16. KRS 36.090, 65.020, 65.730, 67.081, 67.127, 67.150, 67.320, 67.380, 68.175, 70.540, 70.545, 70.550, 70.560, 70.570, 80.620, 80.630, 80.640, 80.650, 80.660, 80.670, 80.680, 80.685, 80.690, 80.700, 80.710, 80.720, 97.010, 97.020, 97.030, 97.035, 97.040, 97.050, 97.055, 97.790, 97.791, 97.792, 97.793, 97.794, 102.060, 103.110, 103.120, 103.130, 103.140, 103.150, 103.160, 103.170, 103.180, 103.190, 103.200, 103.210, 103.220, 103.230, 103.240, 103.245, 103.246, 103.250, 103.251, 103.260, 103.270, 103.280, 103.285, 103.290, 103.300, 103.310, 103.320, 103.330, 103.340, 103.350, 103.360, 103.370, 103.380, 103.390, 103.400, 103.410, 104.010, 104.170, 105.010, 105.020 105.030, 105.040, 149.200, 149.210, 149.220, 149.230, 149.240, 149.250, 149.260, 149.270, 152.810, 152.820, 152.830, 152.840, 152.850, 152.860, 152.870, 152.880, 152.890, 152.900, 152.910, 152.920, 152.930, 164.665, 178.130, 178.160, 179.140, 179.170, 179.190, 179.200, 179.340, 179.390, 179.450, 182.030, 182.040, 182.050, 182.060, 182.070, 182.080, 182.090, 182.100, 182.110, 182.120, 182.170, 182.180, 182.190, 200.130, 200.140, 200.150, 200.160, 200.170, 200.180, 200.190, 200.200, 200.210, 200.220, 200.230, 200.240, 200.300, 200.310, 200.320, 200.330, 204.010, 204.020, 204.030, 204.040, 204.050, 204.060, 204.070, 204.080, 204.090, 204.100, 204.110, 204.120, 204.130, 204.140, 204.200, 204.210, 207.020, 207.030, 207.040, 207.050, 216.010, 216.020, 216.030, 216.040, 216.050, 216.060, 216.070 249.120, 249.130, 249.140, 249.150, 249.160, 249.170, 249.240, 257.090, 257.280, 257.290, 359.080, 381.695 and 436.160 are repealed.

Section 17. Sections 5, 6, 8 and 9 shall become effective January 1, 1979.

The Committee Substitute to **HB 152** is as follows:

HB 152, AN ACT relating to the powers and functions of county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

For the purposes of this Act, the following words shall have the following meanings:

(1) "County ordinance" means (a) an official written act of a fiscal court, the effect of which is general and lasting in nature, which is enforceable within the jurisdiction of the county; or (b) a lawful appropriation of money.

(2) "Summary" means a concise written narrative covering the main points of any official statement, certified as to its accuracy by the fiscal court and written in a way calculated to inform the public clearly of its contents. Summaries may be written for but are not limited to resolutions and ordinances.

Section 2. KRS 67.080 is amended to read as follows:

(1) The fiscal court may:

(a) [(1)] Appropriate county funds *according to the provisions of KRS 68.210 through 68.360 for lawful purposes* [authorized by law to be appropriated];

(b) [(2)] Sell and convey any real estate belonging to the county, and buy land for the use of the county, when necessary, for the purpose of erecting thereon public buildings. [, such as courthouses, clerk's offices, poorhouses, jails and workhouses, or for the care and support of paupers; or] The fiscal court may appoint one (1) or more commissioners to sell or buy real estate under this subsection, subject to the approval of the fiscal court, and convey it to the purchaser, under the direction of the court, or have it conveyed to the court, by deed properly executed and recorded;

[(3) Erect and keep in repair necessary public buildings;

(4) Secure a sufficient jail and a comfortable and convenient place for holding court at the county seat;

(5) Erect, keep in repair and superintend bridges and other structures;

(6)]*(c)* Regulate and control the fiscal affairs [and property] of the county;

(d) [(7)] Cause correct accounts and records to be kept of all receipts and disbursements of the public funds of the county, and have the accounts of all county officers audited, when necessary; employ a competent person to keep such accounts and records, and make such audits, and pay such person a reasonable compensation for such services [, not to exceed $7,200 per annum];

[(8) Make provision for the maintenance of the poor, provide a poorhouse and poor farm, appropriate county funds for the benefit of infirmaries for the sick located in the county, provide for the care, treatment and maintenance of the sick and poor and provide a hospital for that purpose, or contract with any hospital in the county to do so;

(9) Provide for the good condition of the highways in the county;

(10) Appropriate county funds to make provision to secure immigration into the county and to advertise the resources of the county;

(11) Appropriate county funds for the benefit of colleges located in the county, or colleges located in adjoining counties;

(12) Execute all of its orders consistent with law and within its jurisdiction of all such other matters relating to the levying of taxes as is conferred on the fiscal court by law;]

(e) [(13)] Exercise all the corporate powers of the county unless otherwise provided by law; [and

(14) Cause the construction or reconstruction of access roads when, in the opinion of the fiscal court after receiving the recommendation of the county road engineer, the construction or reconstruction of the access roads would serve as an inducement to industrial location or a substantial expansion of industry, and the estimated cost of the project is less than twenty-five thousand dollars ($25,000).]

(f) Establish all appointive offices, set the duties of those offices, and approve all appointments to those offices;

(g) Investigate all activities of the county government.

(2) The fiscal court shall:

(a) Appropriate county funds, according to the provisions of KRS 68.210 through 68.360, for purposes required by law;

(b) As needed, cause the construction, operation and maintenance of all county buildings and other structures, grounds, roads and other property;

(c) Adopt an administrative code for the county.

(3) The fiscal court shall not exercise executive authority except as specifically assigned by statute.

Section 3. KRS 67.083 is amended to read as follows:

(1) *It is the purpose of this section to provide counties as units of general purpose local government with the necessary latitude and flexibility to provide and finance various governmental services within those functional areas specified in subsection (3) of this section, while the general assembly retains full authority to prescribe and limit by statute local governmental activities when it deems such action necessary.*

(2) The fiscal court of any county is hereby authorized [and empowered to exercise all the rights, powers, franchises, and privileges including the power] to levy all taxes not in conflict with the constitution and statutes of this state now or hereafter enacted [, which the fiscal court shall deem requisite for the health, education, safety, welfare, and convenience of the inhabitants of the county and for the effective administration of the county government to the same extent as if the general assembly had expressly granted and delegated to the fiscal court all the authority that is within the power of the general assembly to grant to the fiscal court of said counties].

(3) The fiscal court shall have the power to carry out governmental functions necessary for the operation of the county. Except as otherwise provided by statute or the Kentucky constitution, the fiscal court of any county may enact ordinances, issue regulations, levy taxes, issue bonds, appropriate funds and employ personnel in performance of the following public functions:

(a) Control of animals, and abatement of public nuisances;

(b) Regulation of public gatherings;

(c) Public sanitation and vector control;

(d) Provision of hospitals, ambulance service, programs for the health and welfare of the aging and juveniles, and other public health facilities and services;

(e) Provision of corrections facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders;

(f) Provision of parks, nature preserves, swimming pools, recreation areas, libraries, museums and other recreational and cultural facilities and programs;

(g) Provision of cemeteries and memorials;

(h) Conservation, preservation and enhancement of natural resources including soils, water, air, vegetation and wildlife;

(i) Control of floods;

(j) Facilitating the construction of new housing; causing the repair or demolition of structures which present a hazard to public health, safety or morals or are otherwise inimical to the welfare of residents of the county; causing the redevelopment of housing and related commercial, industrial and service facilities in urban or rural areas; providing education and counseling services and technical assistance to present and future residents of publicly assisted housing;

(k) Planning, zoning and subdivision control according to the provisions of KRS Chapter 100;

(l) Adoption, by reference or in full, of technical codes governing new construction, renovation or maintenance of structures intended for human occupancy;

(m) Regulation of commerce for the protection and convenience of the public;

(n) Regulation of the sale of alcoholic beverages according to the provisions of KRS Chapters 241 through 244;

(o) Management of solid wastes and disposition of abandoned vehicles;

(p) Provision of public buildings, including armories, necessary for the effective delivery of public services;

(q) Cooperation with other units of government and private agencies for the provision of public services, including but not limited to training, educational services and cooperative extension service programs;

(r) Provision of public utilities including but not limited to water, sewage disposal, gas and electricity;

(s) Licensing or franchising of public utilities, including but not limited to cable television;

(t) Provision of streets and roads, bridges, tunnels and related facilities, elimination of grade crossings, provision of parking facilities, enforcement of traffic and parking regulations;

(u) Provision of police and fire protection;

(v) Regulation of taxis, buses and other passenger vehicles for hire;

(w) Provision and operation of air, rail and bus terminals, port facilities, and public transportation systems;

(x) Promotion of economic development of the county, directly or in cooperation with public or private agencies, including the provision of access roads, land and buildings, and promotion of tourism and conventions.

(4) [(2)] The county judge/executive is hereby authorized and empowered to exercise all of the executive powers pursuant to [subsection (1) of] this section.

(5) A county acting under authority of this section may assume, own, possess and control assets, rights and liabilities related to the functions and services of the county.

(6) If a county is authorized to regulate an area which the state also regulates, the county government may regulate the area only by enacting ordinances which are consistent with state law or administrative regulation.

(a) If the state statute or administrative regulation prescribes a single standard of conduct, a county ordinance is consistent if it is identical to the state statute or administrative regulation.

(b) If the state statute or administrative regulation prescribes a minimal standard of conduct, a county ordinance is consistent if it establishes a standard which is the same as or more stringent than the state standard.

(c) A county government may adopt ordinances which incorporate by reference state statutes and administrative regulations in areas in which a county government is authorized to act.

(7) County ordinances which prescribe penalties for their violation shall be enforced throughout the entire area of the county unless:

(a) Otherwise provided by statute, or

(b) The legislative body of any city within the county has adopted an ordinance pertaining to the same subject matter which is the same as or more stringent than the standards that are set forth in the county ordinance.

(8) [(3)] The powers granted to counties by this section shall be in addition to all other powers granted to counties by other provisions of law. A permissive procedure authorized by this section shall not be deemed *to be* exclusive or to prohibit the exercise of other existing laws and laws which may hereafter be enacted but shall be an alternative *or supplement* thereto.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No action embraced in the term "county ordinance" may be taken except by passage of a county ordinance. Other official actions, including but not limited to approvals required by the fiscal court, may be taken by resolution, order or motion;

(2) All ordinances shall be introduced in writing;

(3) No county ordinance shall relate to more than one subject, and each ordinance shall be prefaced in the following manner by a title which expresses that subject: "AN ORDINANCE relating to (the subject of the ordinance):";

(4) There shall be inserted between the title and the body of each county ordinance an enacting clause written in the following manner: "Be it ordained by the fiscal court of county of , Commonwealth of Kentucky:";

(5) County ordinances shall be amended by ordinance and only by setting out in full each amended section;

(6) No action of a fiscal court shall be invalidated because of improper denomination of a county ordinance or other written document, if the procedures required for taking the action have otherwise been observed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No county ordinance shall be passed until it has been read on two separate days, but ordinances may be read by title and a summary only.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. In the event consideration for passage is continued from the initial meeting to a subsequent date, no further publication is necessary provided that at each meeting the time, date and place of the next meeting is announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. Where applicable a sketch, drawing or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety and other self contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided by statute, a majority of a fiscal court shall constitute a quorum and a majority of a quorum shall be sufficient to take action, except that a majority of the fiscal court shall be required to pass an ordinance. No meeting shall be held by the fiscal court without notice to all members thereof.

(2) A majority of the fiscal court may declare an emergency to exist by naming and describing the emergency, and thereafter may adopt a county ordinance to address that emergency without regard to the requirements of Section 5 of this Act.

(3) All county ordinances and other official actions shall state the effective date thereof.

Section 7. KRS 67.040 is amended to read as follows:

(1) The fiscal court of each county shall consist of the county judge/executive [, or in his absence the county judge/executive pro tem,] and the justices of the peace of the county; or of the county judge/executive [, or in his absence the county judge/executive pro tem,] and three (3) county commissioners elected under KRS 67.050 and 67.060.

(2) The county judge/executive [, or in his absence the county judge/executive pro tem,] shall preside, if present. [If neither the county judge/executive nor the county judge/executive pro tem is present or cannot preside,] A majority of the justices of the peace or commissioners shall elect one (1) of their number to preside during the absence or inability of the county judge/executive [or county judge/executive pro tem] to preside. [The county judge/executive, or the county judge/executive pro tem or justice presiding in his place, shall preserve order, and may fine and imprison for contempt of court in the same manner as the presiding judge of the county court.]

[(3) Not less than a majority of the members of the fiscal court shall constitute a quorum for the transaction of business. No proposition shall be adopted except with the concurrence of at least a majority of the members present.]

(3) [(4)] When there is a tie vote in the fiscal court in the selection of any officer or employe to be selected by the fiscal court, and a deadlock results and continues for fifteen (15) days or longer, the county judge/executive shall cause to be entered upon the minutes of the fiscal court an order reciting the facts as to the deadlock, and the question upon which it has occurred and exists, and thereupon, the county judge/executive shall make such appointment.

Section 8. KRS 67.100 is amended to read as follows:

(1) The fiscal court is a court of record. *Minutes of the proceedings of each meeting shall be prepared and submitted for approval at the next succeeding meeting.*

(2) Every official action of the fiscal court shall be made a part of the permanent records of the county.

(3) The county budget ordinance shall be indexed so that each index list covers one fiscal year and shall be listed in such index no later than thirty days after passage and any required approval.

(4) County ordinances other than the county budget ordinance shall be indexed in a composit index of all county ordinances in force, and shall be listed in the index no later than thirty days after passage and any required approval.

(5) A copy of all records required by this section shall be kept in the office of the county court clerk.

[Before each adjournment, the minutes of the proceedings of the fiscal court shall be publicly read by the clerk of the court, and corrected if necessary, and shall be signed by the presiding judge, with the approval of the justices of the peace or county commissioners who were present when the court was held.

(3) No minute or order of the fiscal court shall be valid until read and signed as required by subsection (2), nor unless the record shows by whom the court was held.]

Section 9. KRS 67.120 is amended to read as follows:

(1) Except in counties containing a city of the first class, the county court clerk, *at his option,* shall be clerk of the fiscal court. He shall attend its sessions and keep a full and complete record of all its proceedings, with a proper index. For his services as clerk of the fiscal court he shall receive an annual salary fixed at a reasonable amount by the fiscal court and paid in monthly instalments out of the county treasury. The salary must be fixed not later than the first Monday in May in the year in which county clerks are elected. *If the county clerk chooses not to be the clerk of the fiscal court, the fiscal court may select a clerk according to the provisions of subsection (2) of this section.*

(2) The fiscal court of each county in this commonwealth in which there is located a city of the first class shall have a clerk, and may have a deputy clerk and may employ a stenographer, all of whom shall attend its sessions and keep a full and correct record of all the proceedings of the court, together with a complete index, and who in addition shall perform such duties as may be required of them by the court. The fiscal court shall [, on or before July 1 every four (4) years, beginning with 1920,] appoint a clerk who shall *serve at the pleasure of the fiscal court* [hold his office for a term of four (4) years, commencing on July 1]. The clerk shall execute bond to be approved by the fiscal court. He shall receive an annual salary which shall be fixed by the court and paid in monthly instalments out of the county levy. The court may appoint a deputy and a stenographer who shall qualify by taking the constitutional oath and who shall serve at the will of the court. The salary of the deputy clerk and the stenographer shall be fixed by the court and paid in monthly instalments out of the county levy.

Section 10. KRS 67.130 is amended to read as follows:

The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds and other properties. The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds and other properties. The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds and other properties at the county seat as he deems appropriate. [The jailer of each county having a population of less than seventy-five thousand (75,000) and not having a city of the second class shall be superintendent of the public square and of all county buildings at the county seat.] The fiscal court of each *county* [of said counties] shall annually appropriate a sum sufficient to purchase the labor and materials necessary to *maintain and operate county* [heat and light such] property, including the jailer's residence if owned by the county, and to keep *the jailer's residence* [it] in repair and in clean, comfortable and presentable condition. *Any* [The] sum [so] appropriated *for maintenance and operation of the jailer's residence* shall be expended by the jailer. The *county attorney* [jailer] shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.

Section 11. KRS 67.140 is amended to read as follows:

[In counties containing a city of the second class wherein the circuit court is always held at the county seat,] The fiscal court [shall have the care and custody of the courthouse at the county seat, the courtrooms and offices therein, and the public grounds adjacent thereto, and] shall have authority and jurisdiction to levy and collect property taxes necessary for the purpose of keeping and maintaining the courthouse and grounds in proper condition and repair, to prevent injury thereto, to keep them in a proper state of cleanliness and sanitation, to provide heat and lights for them, and to provide sufficient water for the courts and offices therein.

Section 12. KRS 67.170 is amended to read as follows:

The jailer of each county shall take charge of and carefully preserve all furniture, bedding and similar property belonging to the [courthouse and] jail *and any other county property at the county seat for which he* *may act as superintendent.* The jailer shall be liable to the county upon his official bond for the value of any such property lost or destroyed by reason of his negligence or fault, and the county may enforce this liability by notice and motion in the county court.

Section 13. KRS 208.130 is amended to read as follows:

(1) The fiscal court of each county *may* [shall] provide for a suitable facility or facilities for the custody and care of children held in custody pending disposition of their cases by the juvenile court, and may employ necessary personnel for the operation thereof.

(2) In counties containing a city of the first or second class, the fiscal court *may* [shall] maintain a permanent detention home, either through arrangement with another public agency or with a private organization or agency, or by acquiring and operating the home as a county institution.

(3) In counties other than those containing a city of the first or second class, the fiscal court *may* [shall] either maintain a detention home or arrange for the use of private or family homes.

(4) The department may assist the counties in the acquisition, development and furnishing of detention facilities, and may employ available funds for that purpose. The detention facilities may be subject to the supervision of the department, and shall conform to rules and regulations prescribed by the department.

(5) Each detention facility shall be conducted under the jurisdiction of the juvenile court for which it is maintained and each child detained in such facility shall be deemed to be under the jurisdiction of the court.

(6) The fiscal court of any county may arrange with the department for the use of its regional reception-diagnostic centers for those cases pending before the juvenile court of its county. The fiscal court is authorized to make such payments as agreed upon with the department for the use of the services and facilities. The use of the department's regional reception-diagnostic centers by the individual juvenile courts shall not give such juvenile courts jurisdiction over the department's regional reception-diagnostic centers.

Section 14. KRS 247.080 is amended to read as follows:

[Fiscal courts and] County boards of education may appropriate such sums of money out of their annual funds as in their wisdom are necessary to aid in carrying on extension work in agriculture and home economics in their respective counties, in connection with the University of Kentucky.

SECTION 15. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The repeal of any statute granting permissive power or authority to counties shall not be construed to limit any power or authority which may be exercised by a fiscal court pursuant to KRS 67.083.

Section 16. KRS 36.090, 65.020, 65.730, 67.081, 67.127, 67.150, 67.320, 67.380, 68.175, 70.545, 70.550, 70.560, 70.570, 80.620, 80.630, 80.640, 80.650, 80.660, 80.670, 80.680, 80.685, 80.690, 80.700, 80.710, 80.720, 97.010, 97.020, 97.030, 97.035, 97.040, 97.050, 97.055, 97.790, 97.791, 97.792, 97.793, 97.794, 102.060, 103.110, 103.120, 103.130, 103.140, 103.150, 103.160, 103.170, 103.180, 103.190, 103.200, 103.210, 103.220, 103.230, 103.240, 103.245, 103.246, 103.250, 103.251, 103.260, 103.270, 103.280, 103.285, 103.290, 103.300, 103.310, 103.320, 103.330, 103.340, 103.350, 103.360, 103.370, 103.380, 103.390, 103.400, 103.410, 104.010, 104.170, 105.010, 105.020 105.030, 105.040, 149.200, 149.210, 149.220, 149.230, 149.240, 149.250, 149.260, 149.270, 152.810, 152.820, 152.830, 152.840, 152.850, 152.860, 152.870, 152.880, 152.890, 152.900, 152.910, 152.920, 152.930, 164.665, 178.130, 178.160, 179.140, 179.170, 179.190, 179.200, 179.340, 179.390, 179.450, 182.030, 182.040, 182.050, 182.060, 182.070, 182.080, 182.090, 182.100, 182.110, 182.120, 182.170, 182.180, 182.190, 200.130, 200.140, 200.150, 200.160, 200.170, 200.180, 200.190, 200.200, 200.210, 200.220, 200.230, 200.240, 200.300, 200.310, 200.320, 200.330, 204.010, 204.020, 204.030, 204.040, 204.050, 204.060, 204.070, 204.080, 204.090, 204.100, 204.110, 204.120, 204.130, 204.140, 204.200, 204.210, 207.020, 207.030, 207.040, 207.050, 216.010, 216.020, 216.030, 216.040, 216.050, 216.060, 216.070 249.120, 249.130, 249.140, 249.150, 249.160, 249.170, 249.240, 257.090, 257.280, 257.290, 359.080 and 381.695 are repealed.

Section 17. Sections 5, 6, 8 and 9 shall become effective January 1, 1979.

HB 398, AN ACT relating to county police force discipline.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.445 is amended to read as follows:

(1) [In counties other than counties containing cities of the first class] Any officer or employe may be removed, suspended, laid off, reduced in grade, or fined by the chief for any cause which will promote the efficiency of the service, but before any such action is taken by the chief against any officer or employe, the chief shall furnish the officer or employe concerned with a written statement of the reasons why the described

action is taken. The officer or employe may be reduced, removed, suspended, laid off or fined from the date when such written statement of reasons is served upon him. Each officer or employe removed, suspended, laid off, reduced in grade, or fined, shall be allowed a period of ten (10) days within which he may file written answer to the charges and reasons which caused his suspension, removal, reduction or fine, which shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except in the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for his action to the board.

(2) [(a) In counties containing cities of the first class the chief of police may suspend an officer for whatever reason the chief deems will promote the efficiency of the service; however, at the time of said suspension the chief must present, in writing to the suspended officer, a copy of the charges against him. The board shall meet within a period of sixty (60) days from the date that the officer is so charged and suspended and determine what appropriate penalty, if any, shall be given to said officer. An officer who does not desire a hearing before the board shall file, with the board, a letter so stating.

(b) In counties containing cities of the first class] Any citizen who makes written charges of misconduct, under oath, concerning the actions of any police officer hereunder shall present the charges to the chief of police, who shall investigate said charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Section 2. KRS 78.455 is amended to read as follows:

In all cases provided for in KRS 78.445 and 78.450, the action of the chief or of the board shall be final except in the following cases:

(1) [In counties other than counties containing cities of the first class] Every action in the nature of a dismissal, suspension, reduction or fine made by the chief, shall be subject to review by the board at request of any officer or employe affected by KRS 78.400 to 78.460, and [in any case where the board, after investigation, is of the opinion that the disciplinary action taken by the chief was brought about or influenced by reason of political activity or religious belief, or any improper or unjustified prejudice, then] the board shall give notice and hold a public hearing with respect thereto, and in any case where, after such public hearing, a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, then the order of the chief may be set aside and revoked by the board and the board may impose such penalty or punishment as it may deem necessary and appropriate, *if any.* [The board may, after investigation, increase any disciplinary action taken by the chief where such additional action is justified in the opinion of a majority of the members of the board.]

(2)(a) [In all counties, including counties containing cities of the first class,] Every action in the nature of a dismissal, suspension, reduction or fine made by the board shall be final, except that any person aggrieved thereby may, within twenty (20) days after the rendition of such action, appeal to the circuit court of the county in which the board meets. The board shall be named respondent as the county police force merit board, and service shall be had on the chairman thereof. The appeal taken to the circuit court shall be docketed by the clerk thereof as a civil action and shall be tried anew, as if no action had been rendered by the board.

(b) The judgment of the circuit court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in civil action.

HB 399, AN ACT relating to the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.577 is amended to read as follows:

(1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) Members of the county employes retirement system covered by this section who have completed twenty-five (25) years of service shall not have their allowance for early retirement reduced to reflect earlier commencement of benefits.

The Committee on Judiciary-Courts reported **SB 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 64, AN ACT relating to criminal statistics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, [judge,] prosecuting attorney, [court clerk,] probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; state police, state fire marshal, board of alcoholic beverage control; department for human resources; department of transportation; bureau of corrections; and every other person or criminal justice agency, *except the court of justice,* public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the department, shall:

(a) Install and maintain records needed for reporting data required by the department.

(b) Report to the department as and when the department requests, all data demanded by it except that such reports concerning a juvenile delinquent shall not reveal his or his parents' identity.

(c) Give the department or its accredited agent access for purpose of inspection.

(d) Cooperate with the department to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection providing prosecution is completed or a determination not to prosecute has been made. However, portions of such records may be withheld from inspection if such inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in such records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of such records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized criminal history records mean information on individuals collected and compiled by the department of justice from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom to include sentencing, correctional supervision and release. Such information is restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the department of justice. Criminal justice agencies shall retain such documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt such regulations as are necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of such information based upon recommendations submitted by the commissioner, bureau of state police.

(7) The administrative office of the courts may, upon suitable agreement between the chief justice and the secretary of justice, supply criminal justice information and data to the department. No information shall be solicited from a circuit clerk, justice or judge, court, or agency of the court of justice unless such solicitation or request for information is made pursuant to the agreement which may have been reached between the chief justice and the secretary of justice.

Section 2. KRS 17.157 is amended to read as follows:

(1) Any public official or employe who knowingly or intentionally makes, or causes to be made, a false return of information to the bureau shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding $500, or both.

(2) If any public official or employe, *except justices, judges, circuit clerks, and employes of the court of justice,* required to report to the bureau neglects or refuses to comply with the requests of the bureau, or its rules governing record systems and their maintenance, the bureau chief shall give written notice thereof to the person or persons authorized by law to disburse funds of the governmental agency to the public official or employe involved. No funds of the governmental agency shall thereafter be paid to the public official or employe, whether in the form of salary, fees, expenses, compensation, or otherwise, until the bureau chief

notifies the disbursing authority that performance of the required duty has been completed.

The Committee on Public Utilities and Transportation reported **HB 194, HB 262, HB 517, HB 547,** and **SB 74** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 194, AN ACT relating to taxicabs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1)(a) The term "taxicab certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of one city and its suburban area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

(b) A "taxicab" is a motor vehicle operated under one or more taxicab certificates, and is a vehicle designed or constructed to transport not more than *fifteen (15)* [six (6)] passengers exclusive of the driver;

(c) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;

(2)(a) An "airport limousine certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;

(b) An "airport limousine" is a motor vehicle operated under one or more airport limousine certificates;

(c) The term "airport limousine license" means a license plate issued for a motor vehicle authorizing its operation under one or more airport limousine certificates;

(3)(a) The term "local cartage certificate" means a certificate granting authority only for the operation of motor vehicles exclusively engaged in the transportation of property for hire between points within a city or within a city and its commercial area;

(b) A "local cartage vehicle" is a motor vehicle operated under a local cartage certificate;

(4) The term "U-drive-it" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

(5) The term "driveaway" means the transporting and delivering of motor vehicles, except semi-trailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semi-trailers shall not be included in the term.

HB 262, AN ACT relating to special license plates for general assembly members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.178 is amended to read as follows:

(1) Upon application for each licensing period, and payment of an additional license fee of twenty-five dollars ($25.00), owners of motor vehicles who are duly elected members of the general assembly shall be issued an additional license plate upon which shall be inscribed, in lieu of the usual registration number, letters indicating whether applicant is a senator or representative followed by the number of applicant's senatorial or legislative district (ie. SENATE-38 or HOUSE-30), and in place of the county name, the word "LEGISLATURE," and the licensing period for which the plate is issued.

(2) Any person who has been sworn as a member of the general assembly, or who has received his certificate of election to the general assembly and whose election is not being challenged, may apply for the special legislative license plate authorized by this section, provided the term of office to which he was elected shall not expire before the end of the licensing period, and provided that he has complied with all other laws of this state relating to the registration and licensing of motor vehicles.

(3) Applications shall be filed with the county clerk of the county in which the legislator resides and the clerk shall forward the applications promptly to the department of transportation, noting thereon the current registration number of the vehicle for which the special legislative plate is being sought. The department shall thereupon deliver the special legislative plate to the county clerk. The legislator shall leave the original plate in

the custody of the county clerk and attach the special legislative plate to the vehicle so licensed. License plates issued under this section shall expire on *February 28* [December 31].

(4) Upon the sale or transfer of a vehicle bearing such special legislative license plate, the owner shall remove same and obtain from the custody of the county clerk the original plate and attach it to the vehicle to be sold or transferred. Said special legislative plate shall be reissued by the county clerk for use on any other vehicle of the same class and category owned by the legislator for which the license was originally issued.

(5) For services performed, the county clerk shall receive from each applicant in addition to the regular registration fee and to the additional license fee as provided for in this section the additional sum of one dollar ($1.00) for each registration under this section. A like amount shall be charged for the reissuance of such special license plate after the sale or transfer of the vehicle to which it was originally attached.

(6) The secretary of the department of transportation shall make such reasonable rules and regulations, and prescribe such forms, as are deemed necessary to further the purpose of this section.

HB 517, AN ACT relating to motor vehicle registration fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine passengers, including the operator, shall be $11.50.

(2) The annual registration fee for each motorcycle shall be $5.00, and for each sidecar attachment, $3.00.

(3) All motor vehicles except those mentioned in subsections (1) and (2), and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (13), shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
0- 6,000	$ 11.50
6,001-10,000	24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4)(a) Any farmer owning a truck having a gross weight of 30,000 pounds or less may have it registered as a farmer's truck and obtain a license for $11.50. The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of 30,000 pounds or less, and that during the next twelve months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of 30,000 pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm [, and the vehicle registered will not be operated more than fifty (50) air miles from his farm].

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for $11.50 by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of 18,000 pounds, which are used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple, where such railhead or tipple is located at a point not more than fifty (50) air miles from the point at which such coal is mined, or which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the department that the vehicle may be

licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the bureau's certification to the department of transportation copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of 18,000 pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056 (2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be $20.00 and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14)(a) The bureau of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the department shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to register his motor vehicle under this section shall first register such vehicle with the county clerk pursuant to KRS 186.020 for a fee of $1.00. Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. The bureau shall promulgate regulations in accordance with KRS 186.050.

HB 547, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two or more persons having a joint or common interest;

(3) The unmodified term "utility" means any person except a city who owns, controls, operates or manages an energy utility or a non-energy utility;

(4) "Energy utility" means any person except a city who owns, controls, operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for light, heat, power or other uses; or

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation.

(5) "Non-energy utility" means any person except a city who owns, controls, operates or manages any facility used or to be used for or in connection with:

(a) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(b) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(c) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district.

[(3) "Utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district.]

(6) [(4)] "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(7) [(5)] "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(8) [(6)] "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(9) [(7)] "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(10) [(8)] "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(11) [(9)] "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(12) [(10)] "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) [(11)] "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) [(12)] "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(15) "Energy commission" means the energy regulatory commission;

(16) "Utility commission" means the utility regulatory commission;

(17) The unmodified term "commissions" means both the energy commission and the utility commission. The unmodified term "commission" means the commission with regulatory jurisdiction over the affected utility, as provided in this chapter;

(18) "Commissioner" means a member of either the energy commission or the utility commission.

[(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one of the members of the commission.]

Section 2. KRS 278.012 is amended to read as follows:

Notwithstanding any other provisions of the Kentucky Revised Statutes, any water association formed for the purpose of furnishing water services to the general public pursuant to KRS Chapter 273 is deemed to be and shall be a *non-energy* [public] utility and shall be subject to the jurisdiction of the *utility* [public service] commission in the same manner and to the same extent as any other *non-energy* utility as defined in KRS 278.010.

Section 3. KRS 278.015 is amended to read as follows:

Notwithstanding any of the provisions of KRS chapter 74 any water district, combined water [, gas] or sewer district, or water commission shall be a *non-energy* [public] utility and shall be subject to the jurisdiction of the *utility* [public service] commission in the same manner and to the same extent as any other *non-energy* utility as defined in KRS 278.010.

Section 4. KRS 278.017 is amended to read as follows:

(1) Except as otherwise provided in this section, the boundaries of the certified territory of each retail electric supplier are hereby set as a line or lines substantially equidistant between its existing distribution lines and the nearest existing distribution lines of any other retail electric supplier in every direction, with the result that there is hereby certified to each retail electric supplier such area which in its entirety is located substantially in closer proximity to one of its existing distribution lines than to the nearest existing distribution line of any other retail electric supplier.

(2) On or before one hundred twenty (120) days after June 16, 1972, or, when requested in writing by a retail electric supplier and for good cause shown, such further time as the *energy* commission may fix by order, each retail electric supplier shall file with the commission a map or maps showing all of its existing distribution lines. The commission shall prepare or cause to be prepared within one hundred twenty (120) days thereafter a map or maps of uniform scale to show, accurately and clearly, the boundaries of the certified territory of each retail electric supplier as established under subsection (1) of this section, and shall issue such map or maps of certified territory to each retail electric supplier. Any retail electric supplier who feels itself aggrieved by reason of a certification of territory pursuant to this section may protest the certification of territory within a one hundred twenty-day period after issuance of the map of certified territory by the commission; and the commission shall have the power, after hearing, to revise or vacate such certified territories or portions thereof.

(3) In such hearing, the commission shall be guided by the following conditions as they existed on June 16, 1972:

(a) The proximity of existing distribution lines to such certified territory.

(b) Which supplier was first furnishing retail electric service, and the age of existing facilities in the area.

(c) The adequacy and dependability of existing distribution lines to provide dependable, high quality retail electric service at reasonable costs.

(d) The elimination and prevention of duplication of electric lines and facilities supplying such territory. In its determination of such protest, the commission hearing shall be de novo; and neither supplier shall bear the burden of proof.

(4) In each area, where the commission shall determine that the existing distribution lines of two or more retail electric suppliers are so intertwined or located that subsection (1) of this section cannot reasonably be applied, the commission shall, after hearing, certify the service territory or territories for the retail electric suppliers under the provisions of subsection (3) of this section.

Section 5. KRS 278.018 is amended to read as follows:

(1) Except as otherwise provided herein, each retail electric supplier shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within its certified territory, and shall not furnish, make available, render or extend its retail electric service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier; provided that any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certified territory. In the event that a new electric-consuming facility should locate in two or more adjacent certified territories, the commission shall determine which retail electric supplier shall serve said facility based on criteria in KRS 278.017 (3).

(2) Except as provided in subsections (3) and (5) of this section, any new electric-consuming facility located in an area which has not as yet been included in a map issued by the commission, pursuant to KRS 278.017 (2), or certified, pursuant to KRS 278.017 (4), shall be furnished retail electric service by the retail electric supplier which has an existing distribution line in closer proximity to such electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any disputes under this subsection shall be resolved by the commission.

(3) The commission may, after a hearing had upon due notice, make such findings as may be supported by proof as to whether any *retail electric supplier* [utility] operating in a certified territory is rendering or proposes to render adequate service to an electric-consuming facility and in the event the commission finds that such *retail electric supplier* [utility] is not rendering or does not propose to render adequate service, the commission may enter an order specifying in what particulars such *retail electric supplier* [utility] has failed to render or propose to render adequate service and order that such failure be corrected within a reasonable

time, such time to be fixed in such order. If the *retail electric supplier* [utility] so ordered to correct such failure fails to comply with such order, the commission may authorize another retail electric supplier to furnish retail electric service to such facility.

(4) Except as provided in subsection (3) of this section, no retail electric supplier shall furnish, make available, render or extend retail electric service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on June 16, 1972, or to which retail electric service is lawfully commenced thereafter in accordance with this section by another retail electric supplier.

(5) The provisions of KRS 278.016 to 278.020 shall not preclude any retail electric supplier from extending its service after June 16, 1972, to property and facilities owned and operated by said retail electric supplier.

(6) Notwithstanding the effectuation of certified territories established by or pursuant to KRS 278.016 to 278.020, and the exclusive right to service within such territory, a retail electric supplier may contract with another retail electric supplier for the purpose of allocating territories and consumers between such retail electric suppliers and designating which territories and consumers are to be served by which of said retail electric suppliers. Notwithstanding any other provisions of law, a contract between retail electric suppliers as herein provided when approved by the commission shall be valid and enforceable. The commission shall approve such a contract if it finds that the contract will promote the purposes of KRS 278.016 and will provide adequate and reasonable service to all areas and consumers affected thereby.

Section 6. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the *appropriate* [public service] commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after a public hearing of all parties interested, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part. Unless exercised within one year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) All carriers or conveyors of electricity or electric power are declared to be common carriers and subject to the obligations incident thereto.

Section 7. KRS 278.025 is amended to read as follows:

(1) Notwithstanding any other provision of the law to the contrary, no person, partnership, public or private corporation or combination thereof shall begin the construction of any facility to be used for the generation of electricity to or for the public for compensation without having first obtained from the *energy* [public service] commission a certificate of Environmental Compatibility. This requirement shall not apply to such facilities for which an application for a certificate of convenience and necessity has been filed with, or granted by, the Public Service Commission prior to June 21, 1974.

(2) Prior to making application for such a certificate such person, partnership, public or private corporation or combination thereof shall submit to the Department for Natural Resources and Environmental Protection or any local pollution control district exercising concurrent jurisdiction with the Department a statement of Environmental Compatibility of the proposed site.

(3) The statement of Environmental Compatibility shall contain such information as the Department (or local pollution control district) considers necessary in making its report to the Commission including but not limited to the following:

(a) A complete description of the proposed project;

(b) Comments on the effects of air pollutants from the proposed facility on public health and welfare, the effects of the proposed facility on the waters of the Commonwealth, the treatment, handling and disposal of solid waste from the proposed facility, noise pollution if any, and other adverse environmental effects which cannot be avoided.

(4) The Department for Natural Resources and Environmental Protection (or any local pollution control district exercising concurrent jurisdiction with the Department) shall within sixty (60) days after receiving the statement of Environmental Compatibility report to the [Public Service] Commission any recommendation on or objections to the proposed facility. The Commission upon request by the Department may extend said sixty (60) day period for an additional thirty (30) days.

(5) On receipt of the report from the Department for Natural Resources and Environmental Protection (or the local pollution control district) or if the period for filing said report has expired without the receipt of such report, the Commission shall conduct a public hearing on the application which shall be open to all interested persons. For the purpose of this paragraph an "interested person" shall mean any person whose living environment would be affected by the construction of the proposed facility.

(6) In granting or denying the application for a certificate of Environmental Compatibility, the Commission shall consider the community needs, the industrial development, customer requirements and the economics of the facility, all of which shall be balanced against any adverse environmental factors.

Section 8. KRS 278.040 is amended to read as follows:

(1) The energy regulatory commission shall regulate energy utilities as defined in KRS 278.010(4) and enforce the provisions of this chapter with respect to such energy utilities. The utility regulatory commission shall regulate non-energy utilities as defined in KRS 278.010(5), and enforce the provisions of this chapter with respect to such non-energy utilities. Each commission shall be a body corporate, with power to sue and be sued in its corporate name. Each commission may adopt a seal bearing its name, which seal shall be affixed to all writs and official documents, and to such other instruments as such commission directs, and all courts shall take judicial notice of the seal.

(2) The jurisdiction of the commissions shall extend to all utilities in this state. The energy regulatory commission shall have exclusive jruisdiction over the regulation of rates and service of all energy utilities and the utility regulatory commission shall have exclusive jurisdiction over the regulation of rates and service of all non-energy utilities. If a utility which is an energy utility also renders service as a non-energy utility, it shall be regulated by the energy commission with respect to all of its rates and services. Provided however, that nothing in this chapter is intended to limit or restrict the police jurisdiction, contract right or powers of cities or political subdivisions.

(3) The commissions may adopt, in keeping with KRS Chapter 13, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of the utilities subject to their respective jurisdictions to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commissions not contrary to law.

[(1) The public service commission shall regulate utilities and enforce the provisions of this chapter. The commission shall be a body corporate, with power to sue and be sued in its corporate name. The commission may adopt a seal bearing the name "Public Service Commission of Kentucky," which seal shall be affixed to all writs and official documents, and to such other instruments as the commission directs, and all courts shall take judicial note of the seal.

(2) The jurisdiction of the commission shall extend to all utilities in this state. The commission shall have exclusive jurisdiction over the regulation of rates and service of utilities, but with that exception nothing in this chapter is intended to limit or restrict the police jurisdiction, contract rights or powers of cities or political subdivisions.

(3) The commission may adopt, in keeping with KRS Chapter 13, reasonable regulations to implement the provisions of KRS Chapter 278 and investigate the methods and practices of utilities to require them to conform to the laws of this state, and to all reasonable rules, regulations and orders of the commission not contrary to law.]

Section 9. KRS 278.046 is amended to read as follows:

The *energy* commission by regulation may prescribe the form and require the appropriate authorities annually to report data relating to rates, finances, and operations of municipally owned electric utilities.

Section 10. KRS 278.047 is amended to read as follows:

(1) The rates charged for services by municipally owned electric utilities shall not be increased except after a public hearing following reasonable notice thereof.

(2) [By January 1, 1978] The rates charged for services and the standards of services maintained by municipally owned electric utilities shall be the same for customers inside and outside the corporate limits.

Section 11. KRS 278.050 is amended to read as follows:

(1) Each commission shall consist of three (3) members appointed by the governor with the advice and consent of the senate. If the senate is not in session when a term expires or a vacancy occurs, the governor

shall make the appointment to take effect at once, subject only to the approval of the joint interim committee on state government of the legislative research commission if such appointment is made more than ninety days prior to the commencement of a session of the general assembly. Each of the three (3) members of each commission shall be appointed on or before the first day of April, 1979 for staggered terms as follows: one (1) shall serve until the first day of April, 1981, one (1) until the first day of April, 1982, and one (1) until the first day of April, 1983, and thereafter for a term of four (4) years and until a successor is appointed and qualified. Members of the energy regulatory commission shall devote their entire time to the duties of their offices.

(2) The governor shall appoint one (1) of the commissioners on each commission to act as chairman thereof and the chairman shall be the chief executive officer of such commission. The governor shall designate one (1) of the commissioners on each commission to serve as vice chairman thereof and act for the chairman in the latter's absence.

(3) Vacancies for unexpired terms shall be filled in the same manner as original appointments, but the appointee shall hold office only to the end of the unexpired term.

[(1) The public service commission shall consist of five members appointed by the governor with the advice and consent of the senate. If the senate is not in session when a term expires or a vacancy occurs, the governor shall make the appointment to take effect at once, subject to the approval of the senate when convened. Each of the five members of said commission shall be appointed on or before March 1, 1976 for staggered terms as follows: two (2) shall serve until March 1, 1977, two (2) until March 1, 1978 and one (1) until March 1, 1979 and thereafter for a term of four years and until a successor is appointed and qualified.

(2) The Governor shall appoint one of the commissioners to act as chairman of the commission and the chairman shall be the chief executive officer of the commission. The governor shall designate one of the commissioners to serve as vice chairman and act for the chairman in the latter's absence.

(3) Vacancies for unexpired terms shall be filled in the same manner as original appointments, but the appointee shall hold office only to the end of the unexpired term.]

Section 12. KRS 278.060 is amended to read as follows:

(1) Each commissioner shall be a resident and qualified voter of this state, not less than twenty-five (25) years of age at the time of his appointment and qualification, and shall have resided in this state for at least three (3) years prior to his appointment and qualification. Each commissioner shall take and subscribe to the constitutional oath of office, which shall be recorded in the office of the secretary of state.

(2) No person shall be appointed to or hold the office of commissioner who holds any official relationship to any utility, or who owns any stocks or bonds thereof, or who has any pecuniary interest therein.

(3) No commissioner shall receive any rebate, pass, percentage of contract or other thing of value from any utility.

(4) *In addition to the restrictions on members of the energy commission set forth in KRS 278.050(1), no commissioner shall engage in any occupation or business inconsistent with his duties as such commissioner* [No commissioner shall engage in any occupation or business inconsistent with his duties as such commissioner].

(5) If any commissioner becomes a member of any political party committee, his office as commissioner shall be thereby vacated.

(6) In making appointments to the commission, the governor shall consider the various kinds of expertise relevant to utility regulation and the varied interests to be protected by the commission, including those of consumers as well as utility investors, and not all members should be of the same occupation or profession.

Section 13. KRS 278.080 is amended to read as follows:

A majority of *each commission* [the commissioners] shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of *such* [the] commission. No vacancy in *a* [the] commission shall impair the right of the remaining commissioners to exercise all of the powers of *such* [the] commission. Any investigation, inquiry, or hearing that *a* [the] commission has power to undertake or hold may be undertaken or held, and the evidence therein taken, by any one or more *members of such commission* [commissioners] or a hearing examiner designated for that purpose by *such* [the] commission, and every finding, opinion or order made by the commissioner or commissioners or hearing examiner so designated shall, when approved or confirmed by *such* [the] commission, become the finding, opinion or order *thereof* [of the commission].

Section 14. KRS 278.090 is amended to read as follows:

(1) The principal office of *each* [the] commission shall be located at the state capital, and it shall be kept open during the usual business hours.

(2) *Each* [The] commission shall hold meetings at its principal office and at such other convenient places in the state as are expedient or necessary for the proper performance of its duties.

Section 15. KRS 278.100 is amended to read as follows:

(1) There shall be one (1) executive director and one (1) secretary who shall serve both commissions and be jointly appointed by the chairman of each commission, and who shall hold office during the pleasure of the joint chairmen and shall devote their entire time to the duties of their offices. In the event that the chairmen of the commissions cannot agree within sixty (60) days of the initial or any subsequent vacancy therein on an appointee for either office, then the secretary of the public protection and regulation cabinet shall appoint a person to hold the appropriate office in accordance with the provisions of this section. The executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmental regulation and knowledge relating to utility regulation. The executive director shall be the chief administrative officer of the office of the commissions and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commissions. The secretary shall keep a full and true record of all the proceedings of the commissions, of all books and papers ordered filed by the commissions, and of all orders made by the commissions or approved and confirmed by them and ordered filed, and shall be responsible to them for the safe custody and preservation of all such documents in their office.

(2) The chairmen of the commissions shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the person so designated shall possess the same powers as their principal.

(3) The executive director with the approval of the chairmen of the commissions may assign the secretary additional administrative duties.

[(1) The commission shall appoint an executive director and a secretary, who shall hold office during its pleasure and shall devote their entire time to the duties of their offices. The executive director shall be selected on the basis of experience and training demonstrating capacity to deal with the problems of management and governmenal regulation and knowledge relatable to utility regulation. The executive director shall be the chief administrative officer of the office of the commisson and shall provide the staff direction and coordination in implementing the program and discharging the duties of the commission. The secretary shall keep a full and true record of all the proceedings of the commission, of all books and papers ordered filed by the commission, and of all orders made by the commission or approved and confirmed by it and ordered filed, and shall be responsible to it for the safe custody and preservation of all such documents in its office.

(2) The commission shall designate from time to time staff persons to perform the duties of the executive director and secretary during their absence, and during the absence of either, the person so designated shall possess the same powers as their principal.

(3) The executive director with the approval of the commission may assign the secretary additional administrative duties.]

Section 16. KRS 278.110 is amended to read as follows:

The *commissions* [commission] acting through the executive director may employ such clerks, stenographers, rate experts, agents, special agents, engineers, accountants, auditors, inspectors, lawyers, hearing examiner, experts and other classified service employes and the *commissions* [commission] may contract for services of persons in a professional or scientific capacity to make or conduct a hearing or a temporary or special inquiry, investigation or examination as *they deem* [it deems] necessary to carry out the provisions of this chapter, or to perform the duties and exercise the powers conferred by law upon the *commissions* [commission].

Section 17. KRS 278.115 is amended to read as follows:

The commission by regulation shall organize *their* [its] office for administration and management under the executive director to reflect *their* [its] functions. The organization may be changed from time to time and may include division directors subject to the exemption from the classified service as provided in KRS 18-140(h).

Section 18. KRS 278.120 is amended to read as follows:

(1) The chairman [of the commission] and [each of] the other *two (2)* [four] members *of each commission* shall be paid a salary fixed under KRS 64.640 to be paid monthly.

(2) The executive director and the secretary of the commission shall be paid a salary to be fixed by the commission, with the approval of the governor.

(3) The commissioners, the executive director, the secretary and employes of the commission are entitled to all expenses, including hotel bills, incurred in traveling on business of the commission.

(4) The salaries and expenses provided for by this section, and all other expenses of the commission incurred in the administration of this chapter, shall be paid out of appropriations as provided by law out of the general expenditure fund.

Section 19. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the *commissions* [public service commission], including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to *their* [its] jurisdiction, the department of revenue shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed one and one-half mills on intrastate receipts, which shall be deposited into the state treasury to the credit of the general fund. The sum by each utility shall not be less than $50 in any one year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

Section 20. KRS 278.140 is amended to read as follows:

To ascertain the amount of the assessment provided for in KRS 278.130, each utility shall, on or before March 31 of each year, file with the commission *having jurisdiction over it* a report of its gross earnings or receipts derived from intrastate business for the preceding calendar year.

Section 21. KRS 278.150 is amended to read as follows:

(1) *Each* [The] commission shall, on or before June 1, certify to the department of revenue the amount of intrastate business of each utility in the state *subject to its jurisdiction* during the previous calendar year. The department of revenue shall collect and pay the assessment into the state treasury to the credit of the general expenditure fund. All such assessments shall be paid into the state treasury through the executive department for finance and administration on or before July 31 of the year in which the assessments are made.

(2) If any amount in the special fund for the maintenance of the *commissions* [commission] remains unexpended at the end of *any* [the 1971-72] fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 22. KRS 278.160 is amended to read as follows:

(1) Under rules prescribed by the *commissions* [commission], each utility shall file with the *appropriate* commission, within such time and in such form as the commission designates, schedules showing all rates established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules.

Section 23. KRS 278.170 is amended to read as follows:

(1) No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions.

(2) Any utility may grant free or reduced rate service to its officers, agents or employes, and may exchange free or reduced rate service with other utilities for the benefit of the officers, agents and employes of both utilities. Any utility may grant free or reduced rate service to the United States, to charitable and eleemosynary institutions, and to persons engaged in charitable and eleemosynary work, and may grant free or reduced rate service for the purpose of providing relief in case of flood, epidemic, pestilence or other calamity. The terms "officers" and "employes," as used in this subsection, include furloughed, pensioned and superannuated officers and employes, and persons who have become disabled or infirm in the service of the utility. Notice must be given to the *appropriate* commission and its agreement obtained for such reduced rate service except in case of an emergency, in which case the commission shall be notified at least five (5) days after the service is rendered.

(3) The *appropriate* commission may determine any question of fact arising under this section.

Section 24. KRS 278.180 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no change shall be made by any utility in any rate except upon twenty (20) days' notice to the *appropriate* commission, stating plainly the changes proposed to be made and the time when the changed rates will go into effect. The commission may order a rate change only after giving an identical notice to the utility, and any aggrieved party petitioning within the period for a hearing shall be entitled thereto before said order is entered.

(2) The commission, upon application of any utility, may prescribe a less time within which a reduction of rates may be made.

Section 25. KRS 278.185 is amended to read as follows:

(1) The *utilities* [public service] commission shall require that all sewerage corporations under its jurisdiction shall, when submitting an application for a rate change, notify all its customers of the application.

(2) Notification to the customers of the rate change application shall be in writing and shall include an estimate of the probable financial impact upon the customers.

(3) The cost of notifying customers of a rate change shall be borne by the sewerage corporation.

(4) The *utilities* [public service] commission shall make such reasonable rules and regulations as are deemed necessary to further the purpose of this section.

Section 26. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the *appropriate* commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, enter upon a hearing concerning the reasonableness of the new rates.

(2) Pending such hearing and the decision thereon, and after notice to the utility, the commission may, at any time before said schedule becomes effective, suspend the operation of said schedule and defer the use of such rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make such orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of such five (5) months the utility may place the proposed change of rate, charge, classification or service in effect at the end of such period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in such manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf such amounts were paid such portion of such increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during said five (5) months' suspension period, finds that an emergency exists or that the company's credit or operations will be materially impaired or damaged by the failure to permit said rates to become effective during said five (5) months' period, said commission may, after any hearing or hearings, permit all or a portion of said rates to become effective under such terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) In the event the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of such increased rates or charges, the utility shall make the same within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make such refund within sixty (60) days after such final determination, any party entitled to such refund may, after ten (10) days' written demand, bring an action therefor in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after such final determination. Any number of persons entitled to such refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

Section 27. KRS 278.200 is amended to read as follows:

The commission *having jurisdiction over the affected utility* may, under the provisions of this chapter, originate, establish, change, promulgate and enforce any rate or service standard of any utility that has been or may be fixed by any contract, franchise or agreement between the utility and any city, and all rights, privileges and obligations arising out of any such contract, franchise or agreement, regulating any such rate or service standard, shall be subject to the jurisdiction and supervision of the commission, but no such rate or service standard shall be changed, nor any contract, franchise or agreement affecting it abrogated or changed, until a hearing has been had before the commission in the manner prescribed in this chapter.

Section 28. KRS 278.210 is amended to read as follows:

(1) The *appropriate* commission may provide instruments for, and carry on, the examination and testing

of any meter or appliance used to measure the product or service of any utility, and the examination and testing of any instrument used by a utility to test the accuracy of any meter or appliance used to measure its products or services.

(2) Any patron of a utility may, upon request and payment of the fees fixed by the *appropriate* commission, have a test made of the meter or appliance by which his use of the products or services of the utility is measured.

(3) The *appropriate* commission may establish reasonable fees for testing such meters and appliances at the request of a patron of a utility. If the appliance is found to be commercially defective or inaccurate to the extent of more than two per cent (2%) to the disadvantage of the patron, the fees shall be repaid to the patron and paid by the utility.

Section 29. KRS 278.220 is amended to read as follows:

Each [The] commission may establish a system of accounts to be kept by utilities *subject to its jurisdiction*, or may classify utilities and establish a system of accounts for each class, and may prescribe the manner in which such accounts shall be kept. The system established shall conform as nearly as practicable to the uniform system of accounts prescribed by the National Association of Railway and Utilities Commissioners, except that the system established for telephone and telegraph companies shall conform as nearly as practicable to the system adopted or approved by the Interstate Commerce Commission or other federal agency regulating telephone and telegraph companies.

Section 30. KRS 278.230 is amended to read as follows:

(1) The commissioners and the officers and employes of *each* [the] commission may, during all reasonable hours, enter upon the premises of any utility *subject to its jurisdiction* for the purpose of examining any books or records, or for making any examination or test, or for exercising any power provided for in this chapter, and may set up and use on such premises apparatus and appliances necessary for any such examination or test. The utility shall have the right to be represented at the making of any such examination, test or inspection.

(2) The books, accounts, papers and records of *the* [every] utility shall be available to the commission for inspection and examination. If the books, accounts, papers and records are not within the state, the commission may, by notice and order, require their production or the production of verified copies at such time and place as it designates, any expense incurred to be borne by the utility so ordered.

(3) Every utility, when required by the commission, shall file with it any reports, schedules, classifications or other information that the commission reasonably requires. The commission shall prepare and distribute to the utilities blank forms for any information required under this chapter. All such reports shall be under oath when required by the commission.

Section 31. KRS 278.240 is amended to read as follows:

Copies of official documents and orders filed or deposited according to law in the office of *either* [the] commission, certified by a commissioner, or by the secretary under the seal of the commission, to be true copies of the originals, shall be evidence in like manner as the originals in all matters before the commission and in courts of competent jurisdiction.

Section 32. KRS 278.250 is amended to read as follows:

Whenever it is necessary in the performance of its duties, *either* [the] commission may investigate and examine the condition of any utility *subject to its jurisdiction*. In conducting such investigation, the commission may proceed with or without a hearing as it deems best, but shall make no order without giving a hearing to the parties affected thereby.

Section 33. KRS 278.260 is amended to read as follows:

Upon a complaint in writing made against any utility by any mercantile, agricultural or manufacturing society, or by any body politic or municipal organization, or by any [public] utility, or by any ten (10) patrons of the utility complained of, or by any ten (10) complainants of all or any of the aforementioned classes, that any rate in which the complainant is directly interested is unreasonable or unjustly discriminatory, or that any regulation, measurement, practice or act affecting or relating to the service of the utility or any service in connection therewith is unreasonable, unsafe, insufficient or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed, with or without notice, to make such investigation as it deems necessary or convenient. The commission may also make such an investigation on its own motion. No order affecting the rates or service complained of shall be entered by the commission without a formal public hearing.

Section 34. KRS 278.270 is amended to read as follows:

Whenever *either* [the] commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that any rate *of a utility subject to its jurisdiction* is unjust, unreasonable, insufficient, unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by order prescribe a just and reasonable rate to be followed in the future.

Section 35. KRS 278.280 is amended to read as follows:

(1) Whenever *either* [the] commission, upon its own motion or upon complaint as provided in KRS 278.260, and after a hearing had upon reasonable notice, finds that the rules, regulations, practices, equipment, appliances, facilities or service of any utility *subject to its jurisdiction*, or the method of manufacture, distribution, transmission, storage or supply employed by *such utility* [it], are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, proper, adequate or sufficient rules, regulations, practices, equipment, appliances, facilities, service or methods to be observed, furnished, constructed, enforced or employed, and shall fix the same by its order, rule or regulation.

(2) The commission shall prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by *the* [any] utility, and, on proper demand and tender of rates, the utility shall furnish the commodity or render the service within the time and upon the conditions provided in the rules.

(3) Any person or group of persons may come before the *appropriate* commission and by petition ask that any utility *subject to its jurisdiction* be compelled to make any reasonable extension. The commission shall hear and determine the reasonableness of the extension, and sustain or deny the petition in whole or in part.

Section 36. KRS 278.290 is amended to read as follows:

(1) Subject to the provisions of subsection (2) of this section, *either* [the] commission may ascertain and fix the value of the whole or any part of the property of any utility *subject to its jurisdiction* in so far as the value is material to the exercise of the jurisdiction of the commission, and may make revaluations from time to time and ascertain the value of all new construction, extensions and additions to the property of the utility. In fixing the value of any property under this subsection, the commission shall give due consideration to the history and development of the utility and its property, original cost, cost of reproduction as a going concern, capital structure, and other elements of value recognized by the law of the land for rate-making purposes.

(2) The commission shall not value or revalue the property of any utility unless the valuation or revaluation is necessary or advisable in order to determine the legality or reasonableness of any rate or service or of the issuance of securities, and then only after an investigation affecting the rate, service or securities has been instituted by the commission upon complaint or application or upon its own motion, and a hearing has been held on reasonable notice.

(3) In any rate investigation where the utility serves two (2) or more municipalities, the commission may, in computing the rate of return on the property used and useful, take as the base for the computation the valuation of the system as a whole, but may make a differential in the case of an individual municipality in proportion to the increased cost of service, if the utility can show that such a differential should be allowed.

Section 37. KRS 278.300 is amended to read as follows:

(1) No utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the *appropriate* commission.

(2) Application for authority to issue or assume securities or evidences of indebtedness shall be made in such form as the commission prescribes. Every such application shall be made under oath, and shall be signed and filed on behalf of the utility by its president, or by a vice president, auditor, comptroller or other executive officer having knowledge of the matters set forth and duly designated by the utility. Every such application shall be placed at the head of the docket of the commission and disposed of promptly within sixty days after it is filed with the commission, unless it is necessary for good cause to continue the application for longer time than sixty days, in which case the order making the continuance shall state fully the facts that make it necessary.

(3) The commission shall not approve any issue or assumption unless, after investigation of the purposes and uses of the proposed issue and the proceeds thereof, or of the proposed assumption of obligation or liability, the commission finds that the issue or assumption is for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose.

(4) The commission may grant or deny the application in whole or in part, or may grant it with such modifications and upon such terms and conditions as the commission deems necessary or appropriate. The order of the commission shall specify that the securities or evidences of indebtedness, or the proceeds thereof, shall be used only for the lawful purposes specified in the application, and both the application of the utility and the order of the commission shall state in general terms the purpose of the issuance or assumption.

(5) A copy of any order made and entered by the commission under this section, duly certified by the secretary of the commission, shall be sufficient evidence for all purposes of full and complete compliance by the utility with all procedural and other matters required precedent to the entry of the order.

(6) Securities and evidences of indebtedness issued and obligations and liabilities assumed by a utility, for which, under the provisions of this section, the authorization of the commission is required, shall comply with the terms and conditions of the order of authorization entered prior to the issue or assumption, and where the order has been fully complied with the validity of the issue or assumption shall not be affected by a failure to comply with any provision of this section or rule of the commission relating to procedure or other matters preceding the entry of the order of authorization or order supplemental thereto.

(7) The commission may require periodical or special reports from *the* [any] utility issuing any security or evidence of indebtedness. The report shall show, in such detail as the commission requires, the disposition made of such securities or evidences of indebtedness, and the application of the proceeds thereof.

(8) This section does not apply to notes issued by a utility, for proper purposes and not in violation of law, that are payable at periods of not more than two years from the date thereof, or to like notes, payable at a period of not more than two years from date thereof, that are issued to pay or refund in whole or in part any such notes, or to renewals of such notes from time to time, not exceeding in the aggregate six years from the date of the issue of the original notes so renewed or refunded.

(9) Nothing in this section implies any guarantee of securities or evidences of indebtedness by the state, or any obligation on the part of the state with respect thereto, and nothing in this section limits the power of any court having jurisdiction to authorize or cause receiver's certificates or debentures to be issued according to the rules and practice obtaining in receivership proceedings in courts of equity.

(10) This section does not apply in any instance where the issuance of securities or evidences of indebtedness is subject to the supervision or control of the federal government or any agency thereof, but the *appropriate* commission may appear as a party to any proceeding filed or pending before any federal agency if the issuance of the securities or evidences of indebtedness will materially affect any utility over which the commission has jurisdiction.

(11) This section also does not apply to the issuance of securities or evidence of indebtedness by a utility principally engaged in transportation of gas by pipeline in interstate commerce and subject to the supervision, control or jurisdiction of the federal government or any agency, board or commission thereof.

Section 38. KRS 278.310 is amended to read as follows:

(1) *Each* [The] commission shall fix the time and place for each hearing held by it, and shall serve notice thereof upon the utility and the complainant not less than twenty (20) days before the time set for the hearing. The commission may dismiss any complaint without a hearing if, in its opinion, a hearing is not necessary in the public interest or for the protection of substantial rights.

(2) All hearings and investigations before the commission or any commissioner shall be governed by rules adopted by the commission, and in the conduct thereof neither the commission nor the commissioner shall be bound by the technical rules of legal evidence.

(3) The complainant and the person complained of shall be entitled to be heard in person or by attorney and to introduce evidence.

Section 39. KRS 278.320 is amended to read as follows:

Each [The] commission and each of the commissioners may issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the commission, and such process shall extend to all parts of the state. Service of process in all proceedings brought before or initiated by the commission may be made by certified mail, return receipt requested or by registered mail, or in the same manner as other process in civil cases, as the commission directs.

Section 40. KRS 278.330 is amended to read as follows:

Each [The] commission and each of the commissioners, for the purposes mentioned in the preceding sections of this chapter, may administer oaths, examine witnesses, and certify official acts. If any person fails to comply with any lawful order of the commission or of any commissioner, or with process, or if any witness refuses to testify concerning any matter on which he may lawfully be interrogated, any circuit court judge, on application of the commission or of a commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein. Witnesses summoned before the commission, and witnesses whose depositions are taken pursuant to the provisions of the preceding sections of this chapter, and the officer taking the depositions, shall be entitled to the same fees as are paid for like services in circuit courts, the fees to be paid by the party in whose behalf the witness is subpoenaed.

Section 41. KRS 278.340 is amended to read as follows:

Each [The] commission or any commissioner, or any party to the proceeding, in any investigation or hearing before the commission or any commissioner, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions.

Section 42. KRS 278.350 is amended to read as follows:

No person shall be excused from testifying or from producing any book, paper or account at any inquiry by, or hearing before, *either* [the] commission or any commissioner, upon the ground that the testimony or the book, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture. No person shall be prosecuted or subjected to any forfeiture or penalty for, or on account of, anything concerning which he was compelled to testify under oath or to produce documentary evidence, except that no person so testifying shall be exempt from prosecution or punishment for perjury committed by him in his testimony.

Section 43. KRS 278.360 is amended to read as follows:

A full and complete record shall be kept of all contested proceedings had before *each* [the] commission or any commissioner on any formal hearing, and all testimony shall be taken down by a reporter appointed by the commission.

Section 44. KRS 278.370 is amended to read as follows:

Every order, finding, authorization or certificate issued or approved by *either* [the] commission under any of the preceding provisions of this chapter shall be in writing and shall be entered on the records of the commission. A certificate under the seal of the commission that any such order, finding, authorization or certificate has not been modified, stayed, suspended or revoked shall be received as evidence in any proceeding as to the facts stated therein.

Section 45. KRS 278.380 is amended to read as follows:

Each [The] commission shall deliver a certified copy of any order issued by it to each party to the proceeding in which the order was made, and to an officer or agent of the utility affected thereby.

Section 46. KRS 278.390 is amended to read as follows:

Each [The] commission may compel obedience to its lawful orders by mandamus, injunction or other proper proceedings in the Franklin circuit court or any other court of competent jurisdiction, and such proceedings shall have priority over all pending cases. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, or vacated in whole or in part, by order or decree of a court of competent jurisdiction.

Section 47. KRS 278.400 is amended to read as follows:

After a determination has been made by *either* [the] commission in any hearing, any party to the proceedings may, within twenty (20) days after the service of the order upon him, apply for a hearing with respect to any of the matters determined. The application shall specify the matters on which a rehearing is sought. The commission shall either grant or deny the application for rehearing within twenty (20) days after it is filed, and failure of the commission to act upon the application within that period shall be deemed a denial of the application. Notice of the hearing shall be given in the same manner as notice of an original hearing. Upon the rehearing any party may offer additional evidence that could not with reasonable diligence have been offered on the former hearing. Upon the rehearing, the commission may change, modify, vacate or affirm its former orders, and make and enter such order as it deems necessary.

Section 48. KRS 278.410 is amended to read as follows:

(1) Any party to a *commission* proceeding [before the commission] or any utility affected by an order of the commission may, within twenty (20) days after being served with the order, or within twenty (20) days after *its* [his] application for rehearing has been denied by failure of the commission to act, or within twenty (20) days after being served with the final order on rehearing, when a rehearing has been granted, bring an action against the commission in the Franklin Circuit Court to vacate or set aside the order or determination on the ground that it is unlawful or unreasonable. Notice of the institution of such action shall be given to all parties of recordbefore the commission.

(2) The answer of the commission shall be served and filed within twenty (20) days after service of the complaint. The action shall then be at issue and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. The answer need not deny verbatim the allegations of the petition, but a general denial thereof on behalf of the commission shall be sufficient.

(3) Injunctive relief may be granted by the circuit court in the manner and upon the terms provided by law.

Section 49. KRS 278.420 is amended to read as follows:

If an action is commenced against *either* [the] commission because of an order made in any proceedings before it, the commission shall promptly cause a certified transcript of all proceedings had and testimony taken therein to be made and filed with the clerk of the court in which the action is pending. The cost of preparing and certifying the record shall be paid to the commission by the party bringing the action, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the transcript shall be furnished at cost to any party to the proceeding.

Section 50. KRS 278.430 is amended to read as follows:

In all trials, actions or proceedings arising under the preceding provisions of this chapter or growing out of *either commission's* [the] exercise of the authority or powers granted to *it* [the commission], the party seeking to set aside any determination, requirement, direction or order of the commission shall have the burden of proof to show by clear and satisfactory evidence that the determination, requirement, direction or order is unreasonable or unlawful.

Section 51. KRS 278.485 is amended to read as follows:

Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half (1/2) air-mile of said company's producing gas well or gas gathering pipeline, shall furnish gas service to such owner and applicant, subject to and upon the following terms, conditions and provisions, to-wit:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the *energy* [public service] commission.

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the *energy* [public service] commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines established on the discharge side of any compressor station, or from any line or lines serving or connecting with any gas storage field. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines.

(7) Subject to the rules and regulations of the *energy* [public service] commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

Section 52. KRS 278.510 is amended to read as follows:

(1) No telephone company doing an exchange business in a city shall consolidate with any other telephone company doing an exchange business in the same city, or purchase, lease or operate the plant or line of any such company, until the proper city authorities have found, after such investigation as they deem necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and have stated their finding in a resolution consenting to such consolidation, lease, sale or operating arrangement.

(2) No telephone company doing a toll line business shall consolidate with any other company doing a like business whose lines serve the same communities or localities, or purchase, lease or operate the plant or lines of any such company until the *utility* [public service] commission has found, after such investigation as it deems necessary, that no substantial public benefits result from the separate existence of the companies and that actual competitive conditions do not exist, and has stated its finding in a resolution consenting to such consolidation, lease, sale or operating arrangement. Whenever a joint application of two (2) or more such telephone companies requesting such finding and consent is filed with the *utility* [public service] commission, the commission shall make such investigation, hold such hearings, examine such witnesses and require the production of such books, papers, and records as it deems pertinent to the determination of the application, and shall grant or withhold such consent as the facts warrant.

(3) The *utility* [public service] commission shall have jurisdiction of those matters set out in $YSM201 of the constitution that relate to telephone companies, and shall enter in its minutes a record of its acts in relation thereto.

Section 53. KRS 278.530 is amended to read as follows:

(1) Whenever any telephone company desires to connect its exchange or lines with the exchange or lines of another telephone company and the latter refuses to permit this to be done upon reasonable terms, rates and conditions, the company desiring the connection may proceed as provided in subsection (2) or as provided in subsection (3) of this section.

(2) The company desiring the connection may file a written statement with the *utility* [public service] commission setting out the reasons why the connection is desired and the points at which the connection should be made, and giving the name and address of the owner or chief officer residing in this state of each company with which the connection is desired. The secretary of the commission shall thereupon cause a copy of the written statement to be served upon the companies owning or operating such lines or exchanges, by mailing a copy to the owner or chief officer residing in this state, and shall fix a date, not earlier than ten (10) days from the date of mailing the notice, for the hearing of the application. Upon the day so fixed for the hearing, the companies may respond in writing to the application, and either side may introduce such testimony as it desires and be heard by attorneys. After the hearing is completed the commission shall make its finding and enter it in a book to be kept for that purpose, and shall mail a copy thereof to each side; and if the commission directs the connection to be made it shall indicate the points where the connection is to be made, the number of wires to be connected, the terms and conditions and the rates to be charged, and the division of the rates charged between the companies handling the messages. The cost of making the connection shall be borne equally by the parties. If any company refuses to make a connection for a period of thirty (30) days after the finding of the commission directing the connection to be made, the company desiring the connection may make the connection and may recover one-half (1/2) of the cost thereof from the company so refusing.

(3) In lieu of the procedure provided in subsection (2) of this section, the company desiring the connection may compel the connection upon reasonable terms by suit in equity in the Franklin Circuit Court or in the circuit court of the county in which the company making the demand resides or has its chief office in this state, and the court shall, by mandatory injunction, compel the physical connection of the wires and interchange of messages, and enforce the same by contempt proceedings and in the same manner that other mandatory injunctions are enforced.

Section 54. KRS 278.990 is amended to read as follows:

(1) Any officer, agent or employe of a utility, as defined in KRS 278.010, and any other person who willfully violates any of the provisions of KRS 278.010 to 278.450, or who procures, aids or abets any violation of those provisions by any such utility, shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than six (6) months, or both. If any such utility that is a private corporation violates any of the provisions of KRS 278.010 to 278.450, or does any act therein prohibited, or fails to perform any duty imposed upon it under those sections for which no penalty has been provided by law, or fails to obey any lawful requirement or order of the [public service] commission *having jurisdiction*, the utility shall for each offense forfeit and pay to the state treasurer, to be credited to the general fund, a sum not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000). Each act, omission or failure by an officer, agent or other person acting for or employed by a utility and acting within the scope of his employment shall be deemed to be the act, omission or failure of the utility.

(2) Actions to recover the principal amount due and penalties under KRS 278.010 to 278.450 and this subsection shall be brought in the name of the commonwealth in the Franklin Circuit Court. Whenever any utility is subject to a penalty under KRS 278.010 to 278.450 or this subsection, the [public service] commission *having jurisdiction* shall certify the facts to its counsel, who shall bring an action for recovery of the principal amount due and the penalty. The commission may compromise and dismiss the action on terms approved by the court. The principal amount due shall be paid into the state treasury and credited to the

account of the commission, and all penalties recovered in such actions shall be paid into the state treasury and credited to the general fund.

(3) Any utility that fails to pay an assessment as provided for by KRS 278.130 to 278.150 shall forfeit and pay to the state one thousand dollars ($1,000), and twenty-five dollars ($25.00) for each day it fails to pay the assessment, and shall not be released thereby from its liability for the assessment.

(4) Any utility that issues any securities or evidences of indebtedness, or assumes any obligation or liability in respect to the securities or evidences of indebtedness of any other person, or makes any sale or other disposition of securities or evidences of indebtedness, or the proceeds thereof, for purposes other than the purposes specified in the order of the [public service] commission made with respect thereto under KRS 278.300, shall be fined not more than ten thousand dollars ($10,000).

(5) Any utility that violates any of the provisions of KRS 278.460 shall be fined not less than one hundred dollars ($100) for each offense.

(6) Any company that willfully fails to receive, transport and deliver oil or gas as required by KRS 278.490 shall, in addition to being liable in damages to the injured person, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and each day of wilful failure shall constitute a separate offense.

(7) Any telephone company that refuses to make a connection with the exchange or lines of another company for a period of thirty (30) days after being ordered to do so by the *utility* [public service] commission under subsection (2) of KRS 278.530 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), to be recovered by indictment in the Franklin Circuit Court or in the circuit court of the county where the company requesting the connection resides or has its chief office in this state. If the company desiring the connection proceeds to make the connection, as permitted by subsection (2) of KRS 278.530, and the company so connected with refuses to receive and transmit the toll messages offered to it by the company making the connection, or refuses to deliver messages from its own lines or exchanges to the lines or exchanges of the company making the connection, the company so refusing shall be fined one hundred dollars ($100) for each day it refuses, to be recovered by indictment in the courts mentioned in the first sentence of this subsection; if it continues so to refuse for a period of six (6) months it shall forfeit its right to do business in this state, and any of its officers, agents or employes who does or attempts to do any business in this state for it after the expiration of the six (6) months' period shall be fined fifty dollars ($50.00) for each day he does or attempts to do such business.

(8) Any company that violates any of the provisions of KRS 278.520 or 278.530 for which there is no other penalty provided shall be fined five hundred dollars ($500) for each offense, and each day of such violation shall constitute a separate offense.

Section 55. KRS 278.992 is amended to read as follows:

Any person who violates any regulation adopted and filed pursuant to KRS chapter 13 by the *energy* [public service] commission governing the safety of pipeline facilities and/or the transportation of gas as those terms are defined in the natural gas pipeline safety act of 1968, U. S. congress, shall be subject to a civil penalty to be assessed by the *energy* [public service] commission not to exceed $1,000 for each violation for each day that the violation persists. However, the maximum civil penalty shall not exceed $200,000 for any related series of violations. Any civil penalty assessed for such a violation may be compromised by the commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of the violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the commonwealth of Kentucky to the person charged or may be recovered in a civil action in the Franklin Circuit Court.

Section 56. This Act shall become effective April 1, 1979.

SB 74, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy or mill, or from one market, warehouse, dairy or mill to another market, warehouse, dairy or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection; or

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles to the extent such are used or operated in transportation programs pursuant to grants of funds in furtherance of and governed by the provisions of Title III and Title VII of the federal Older Americans Act of 1965, Public Law 89-73, including all amendments thereto, and to the extent such are used or operated to transport persons whose fares are reimbursed or paid through programs in furtherance of and governed by the provisions of Title XIX and Title XX of the federal Social Security Act, including all amendments thereto;

(5) [(4)] Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(6) [(5)] Motor vehicles owned in whole or in part by any person and used by such person to transport petroleum products and those incidental supplies used or sold in connection with the wholesale or retail sale or such petroleum products of which petroleum products or incidental supplies, such person is the owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person in the furtherance of any commercial enterprise other than the business of transportation of property for hire;

(7) [(6)] Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(8) [(7)] Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(9) [(8)] Motor vehicles used as ambulances in transporting wounded, injured, or sick persons or animals;

(10) [(9)] Motor vehicles used by transit authorities as created and defined in KRS chapter 96A except as required by KRS 96A.170.

The Committee on Business Organizations and Professions reported **HB 1,** with the Second Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Second Committee Substitute to **HB 1** is as follows:

HB 1, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The legislative body of any urban-county government in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242 shall by ordinance create the office of urban-county alcoholic beverage control administrator.

SECTION 2. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) The urban-county administrator in each urban-county government and such investigators and clerks as are deemed necessary for the proper conduct of his office, shall be appointed by the mayor. The urban-county administrator, and his investigators, shall have full police powers of peace officers, and their jurisdiction shall be co-extensive with such urban-county governments. They may inspect any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first obtaining a search warrant.

(2) No person shall be an urban-county administrator, an investigator or an employe of the urban-county government under the supervision of the urban-county administrator, who would be disqualified to be a member of the board under KRS 241.100.

SECTION 3. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

(1) Each urban-county administrator before entering upon his duties as such, shall take the oath prescribed in Section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of not less than one thousand dollars ($1,000).

(2) Each urban-county administrator may require any employe under his supervision to execute a similar bond in such penal sum as he deems necessary.

(3) The cost of bonds given under this section shall be borne by the urban-county government.

SECTION 4. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

The functions of each urban-county administrator shall be the same with respect to urban-county licenses and regulations, as the functions of the board with respect to state licenses and regulations, except that no regulation adopted by an urban-county administrator may be less stringent than the statutes relating to alcoholic beverage control, or than the regulations of the board. No regulation of an urban-county administrator shall become effective until it has been approved by the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Appeals from the orders of each urban-county administrator may be taken to the board by filing with the board within ten (10) days a certified copy of the orders of the urban-county administrator. Matters at issue shall be heard by the board as upon an original proceeding. Appeals from orders of the urban-county administrator shall be governed by KRS 243.550 to 243.590.

Section 6. KRS 241.990 is amended to read as follows:

Any person who after an opportunity to be heard is found by the commissioner to have violated any of the provisions of KRS 241.100, or acted as county administrator in violation of subsection (1) of KRS 241.120, or acted as city administrator or a city employe in violation of subsection (3) of KRS 241.170, *or acted as an urban-county administrator in violation of Section 2 of this Act,* shall automatically vacate his office or position, and upon conviction by a court, he shall be guilty of a felony and be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than two (2) years, or both.

SECTION 7. A NEW SECTION OF KRS CHAPTER 241 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS 244.290 and 244.480, relating to the establishment of hours and times during which alcoholic beverages may be sold, and KRS 243.060 and 243.070, pertaining to local license fees, no county fiscal court nor legislative body of any city of the first, second, third or fourth class in which traffic in alcoholic beverages is not forbidden by KRS Chapter 242, shall enact any ordinance relating to alcoholic beverages. Any such ordinance heretofore enacted by any fiscal court or city legislative body and which has been approved by the board shall continue in effect until changed by such body and the board.

Section 8. KRS 241.060 is amended to read as follows:

The board shall have the following functions, powers and duties:

(1) To adopt reasonable regulations governing the procedure relative to applications for and revocations of licenses and relative to all other matters over which the board has jurisdiction, and for the supervision and control of manufacture, sale, transportation, storage, advertising and trafficking of alcoholic beverages. Regulations need not be uniform in their application, but may vary in accordance with reasonable classifications;

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this state or any political subdivision, and restrict the locations of licensed premises. To this end the board may make reasonable division and subdivision of the state or any political subdivision into districts. Regulations relating to the granting, refusal and revocation of licenses may be different within the several divisions of subdivisions;

(3) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath and require the production of any books or papers relative to the inquiry, regardless of whether the witnesses are licensees. The power provided in this subsection may be delegated by the board to any member or employe of the department. Provisions of the Rules of Civil Procedure shall apply to subpoenas issued pursuant to this subsection, but such subpoenas shall be effective throughout the state and shall be enforceable by petition to a court of competent jurisdiction. The department may pay witnesses the per diem and mileage provided in KRS 421.010;

(4) To conduct hearings and appeals under KRS 241.150, 241.200, 243.470 and 243.520 and render decisions upon the subjects of the hearings and appeals;

(5) To suspend, revoke or cancel for cause, after a hearing, any license issued under KRS 243.020 to 243.670;

(6) If violation of KRS chapter 241, KRS 243.020 to 243.670 or KRS chapter 244 has taken place on the premises within the knowledge of the owner, or was committed or permitted in or upon premises owned by a licensee, the board shall prohibit the issuance of a license for the premises until the expiration of two (2) years from the time the offense was committed;

(7) To suspend a license for any cause for which the board is authorized to exercise its discretion as to revoking a license;

(8) To make rules and regulations and to provide forms, that may be necessary to regulate the alcoholic beverage industry and to make KRS 244.380 to 244.470 effective. [Before any such rule or regulation is adopted, the board, after notice, shall hold a public hearing at its offices in Frankfort, Kentucky, not less than five (5) days before said rule or regulation is to be adopted. Notice of such hearing and of the proposed rule or regulation, shall be given in the following manner:

(a) By publication pursuant to KRS chapter 424; and

(b) By registered letter to the principal office of any organized group or groups of licensees, or class thereof, where such organization has made a request, in writing, to be so notified.

In the event of an emergency the provisions of KRS 13.085 shall become applicable. When any rule or regulation is adopted, the same shall be filed and become effective in the manner and time prescribed in KRS chapter 13.]

Section 9. KRS 242.380 is amended to read as follows:

(1) No property rights *other than those in the alcoholic beverage commission pursuant to KRS 244.195(1)* shall exist in any alcoholic beverages obtained, possessed, held or used in violation of this chapter.

(2) The court, upon conviction of the person arrested, shall order the alcoholic beverages *to be sold by the department of alcoholic beverage control or its representative in accordance with the provisions of KRS 244.195* [destroyed].

[(3) No person who has been ordered by a court to destroy alcoholic beverages shall fail to destroy all of them.]

Section 10. KRS 243.020 is amended to read as follows:

(1) No person shall do any act authorized by any kind of license with respect to the manufacture, storage, sale, purchase, transporting or other traffic in alcoholic beverages unless he holds the kind of license that authorizes such act.

(2) The holding of any permit from the United States government to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a prima facie presumption that the holder of the United States permit is unlawfully trafficking in alcoholic beverages.

(3) No person, conducting a place of business patronized by the public, who does not hold a license to sell distilled spirits and wine by the drink, shall permit any person to sell, barter, loan, give away or drink distilled spirits or wine on the premises of his place of business.

(4) No distilled spirits or wine in excess of three (3) gallons *(twelve (12) liters)* shall be stored or kept except upon the licensed premises of a person who is the holder of a license provided for in KRS 243.030.

Section 11. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1) Distiller's license, per annum $500.00

(2) Rectifier's license, per annum $1,500.00

(3) Blender's license, per annum $500.00

(4) Vintner's license, per annum $500.00

(5) Small winery license, per annum $250.00

(6) Wholesaler's license, per annum $1,000.00

(7) Retail package license, per annum:

(a) In counties containing cities of the first class $600.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(d) In counties containing cities of the fourth class $300.00

(e) In all other counties $200.00

(8) Retail drink license, per annum:

(a) In counties containing cities of the first class $800.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(9) Transporter's license, per annum *$25.00* [10.00]

(10) Dining car license, per annum $50.00

(11) Special nonbeverage alcohol vendor's license, per annum *$25.00* [2.00]

(12) Special industrial alcohol license, per annum *$25.00* [2.00]

(13) Special nonindustrial alcohol license, per annum *$25.00* [2.00]

(14) Special agent's or solicitor's license, per annum *$20.00* [2.00]

(15) Special storage or warehouse license, per annum *$100.00* [50.00]

(16) Special temporary license, per month or part of month, one-sixth (1/6) of the fees enumerated in subsection (7).

(17) Special private club license, per annum $150.00

(18) Special Sunday retail drink license $300.00

(19) Nonresident, special agent or solicitor's license, per annum $20.00

(20) Transport permit, nonresident license, per annum $25.00

(21) Through transporter's license, per annum $25.00

(22) Freight forwarder's license, per annum $25.00

(23) Supplemental bar license:

(a) In counties containing cities of the first class $800.00

(b) In counties containing cities of the second class $500.00

(c) In counties containing cities of the third class $400.00

(24) [(19)] Such other special license as the board may find necessary for the proper regulation and control of the traffic in distilled spirits and wine and may provide for by regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

Section 12. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1) Brewer's license, per annum $1,000.00

(2) Distributor's license, per annum $100.00

(3) Retailer's license, per annum:

(a) New applicants $150.00

(b) Renewals $75.00

(4) Dining car license, per annum $75.00

(5) Transporter's license, per annum $5.00

(6) Special temporary license, per month or part of month $12.50

(7) Special off-premises storage license, per annum $25.00

(8) Distributor's storage, per annum $50.00

(9) Special beer transporter's license, per annum $25.00

(10) [(7)] Such other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243 and 244 and for the proper regulation and control of the trafficking in malt beverages, which may be provided for by regulation and adopted by the state board.

Applicants for special licenses provided for under the authority granted in subsection *(10)* [(7)] may be exempt from so much of the provisions of subsection (3) of KRS 243.100 and paragraph (c) of subsection (1) of KRS 244.090 as the board by regulation prescribes.

Section 13. KRS 243.100 is amended to read as follows:

No person shall become a licensee under KRS 243.020 to 243.670 who:

(1) Has been convicted of any *felony or* misdemeanor directly or indirectly attributable to the use of alcoholic beverages, [or any felony,] within two (2) years preceding the application;

(2) Is under the age of twenty-one (21) years;

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this state for at least one (1) year before the date on which his application for a license is made. This subsection shall not apply to applicants for manufacturers' licenses, to applicants that are corporations authorized to do business in this state or to persons licensed on March 7, 1938;

(4) Is a partnership or corporation, unless each member of the partnership or each of the directors, principal officers, *or* managers [and employes] of the corporation has not been convicted of any misdemeanor *or felony* directly attributable to the use of alcoholic beverages, [or a felony,] is twenty-one (21) years of age or more and is a citizen of the United States;

(5) Has had any license issued under this statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction; or

(6) Is a partnership or corporation, if any member of the partnership or any director or principal officer of the corporation has had any license issued under any statute relating to the regulation of the manufacture, sale and transportation of alcoholic beverages, revoked for cause or has been convicted of a violation of any such statute, until the expiration of two (2) years from the date of the revocation or conviction.

Section 14. KRS 243.180 is amended to read as follows:

(1) A distributor's license shall authorize the licensee to purchase *malt beverages from Kentucky breweries or from out-of-state breweries or distributors licensed to do business by the state in which they are located,* import *a non-U.S. brand malt beverage from an importer or wholesaler registered with the Kentucky Department of Revenue;* or store malt beverages and to sell them only, from the licensed premises, to other distributors, to licensed retailers, to any of its employes for home consumption and also to charitable or fraternal organizations holding group meetings, picnics or outings.

(2) A distributor shall transport malt beverages only by a vehicle owned, rented or leased and operated by himself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier.

(3) A distributor's license must be obtained for each separate warehouse, agent, distributor, broker, jobber or place of business from which orders are received or beverages are distributed unless it is a licensed brewery.

Section 15. KRS 243.210 is amended to read as follows:

(1) A malt beverage transporter's license shall authorize the licensee to transport malt beverages for hire to or from the licensed premises of any licensee under KRS *243.040, except retailers,* [243.020 to 243.670] if both the consignor and consignee in each case are authorized by the law of the states of their residence to sell, purchase, ship or receive the malt beverages.

(2) Notwithstanding the provisions of subsection (1) of this section, a transporter's license shall not be issued to a malt beverage retailer.

Section 16. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease for a term of not less than the license period.

(2)(a) No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, provided the club or restaurant receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the class of cases described in this paragraph the administrator to whom the application is made may, in the exercise of his sound discretion, decide whether the premises are to be licensed.

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection, no license for the sale of alcoholic beverages at retail shall be issued for any premises that are located [on the same street as, and] within two hundred (200) feet of, a building used *primarily* [exclusively] as a church or for class rooms of a school, if the governing authority of the church or school, within ten (10) days after receiving notice of the application for the license, files written protest with the state administrator against the issuance of the license. The measurement shall be taken [on the street on which the licensed premises are located,] in a straight line from the nearest outside wall of the building on the licensed premises to the nearest outside wall of the church or school building. Proof of the giving of notice to the governing authority of the church or school must be furnished to the state administrator before the license is issued.

(b) A hotel, drug store, private club or other retail licensee which or who has been bona fide in business as a licensee at a particular location for not less than one (1) year preceding the passage of Acts 1938, ch. 2, or the establishment of the church or school, may be issued a license by the administrator, in the exercise of his sound discretion, regardless of protest, even though the premises are within less than two hundred (200) feet of a building occupied *primarily* [exclusively] as a church or for class rooms of a school.

(c) In cities of the first, second or third class, the city administrator, with the approval of the state alcoholic beverage control board, may issue a regulation in such city requiring written permission by the governing authority of the church or school for the licensing of retail premises within two hundred (200) feet of the church or school building, in which case the state administrator may not issue the license without such permission, except under the circumstances set forth in paragraph (b) of this subsection.

Section 17. KRS 243.250 is amended to read as follows:

A distilled spirits and wine retail drink license shall authorize the licensee to purchase, receive, possess and sell distilled spirits and wine at retail by the drink for consumption on the licensed premises. Such a licensee shall purchase distilled spirits and wine only from licensed wholesalers and unless he also holds a retail package license he shall not buy or possess distilled spirits in containers of a capacity smaller than *seven hundred fifty (750) milliliters* [twenty (20) ounces], but wine may be bought in containers not smaller than *one hundred (100) milliliters* [six (6) ounces] if the wine does not exceed fourteen per cent (14%) alcohol by volume and the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, and mixed drinks may be bought in containers of a capacity not smaller than *three hundred fifty-five (355) milliliters* [twelve (12) ounces], if the mixed drinks contain a substantial proportion of carbonated water. A retail drink license shall not authorize the sale of distilled spirits or wine by the package.

Section 18. KRS 243.300 is amended to read as follows:

(1) A distilled spirits and wine dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to sell distilled spirits and wine by the package and by the drink only on a particular dining car designated in the license. In sales by the drink the licensee has the same privileges and is subject to the same restrictions as a retail drink licensee.

(2) A malt beverage dining car license may be issued to any railroad or Pullman car company. It shall authorize the licensee to exercise only on a particular dining car designated in the license, the privileges of a malt beverage retailer, subject to the same restrictions as a malt beverage retailer.

(3) Notwithstanding KRS chapter 242, a railroad system license issued under KRS 243.050 shall authorize the sale of alcoholic beverages at retail by the drink or by the package upon any train, that includes a dining car, operated by the licensee in the state; Provided sales are made only while the train is in motion. Notwithstanding any other law, holders of such licenses may retail alcoholic beverages in unbroken packages smaller than *two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine* [one-half (1/2) pint] and may purchase alcoholic beverages from nonresidents.

Section 19. KRS 243.500 is amended to read as follows:

Any license issued under KRS 243.020 to 243.670 must be revoked or suspended for the following causes:

(1) Conviction of the licensee or his agent or employe for selling any illegal beverages on the premises licensed.

(2) Making any false, material statements in an application for a license.

(3) Violation of the provisions of KRS 243.670.

(4) If, within a period of two (2) consecutive years, *any licensee or any of his clerks, servants, agents or employes shall have been convicted of two (2) violations* [there shall have been two (2) or more convictions of

any licensee or of any of his clerks, servants, agents or employes for any violations] of the terms and provisions of chapter 241, 243 or 244 or any act heretofore or hereafter in effect relating to the regulation of the manufacture, sale and transportation of alcoholic beverages or if, within such period, any licensee or any of his clerks, servants, agents or employes shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one (1) such felony and one (1) such misdemeanor.

(5) Wilful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, or any penalties imposed by or under the provisions of any statutes, ordinances or acts of congress relative to taxation, or for a violation of any rules or regulations of the department of revenue made in pursuance thereof.

(6) Revocation of any license or permit provided in KRS 243.060, 243.070, 243.600 and 243.610, or granted under any act of congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages. Any license issued under KRS 243.020 to 243.670 must be revoked or suspended in the case of sale of alcoholic beverages by the licensee at a price in excess of the price set by federal or state regulations.

(7) Setting up, conducting, operating or keeping, on the licensed premises, any gambling game, device, machine or contrivance, or lottery or gift enterprise, or handbook or facility for betting or transmitting bets on horse races; or permitting to be set up, conducted, operated, kept, or engaged in, on the licensed premises, any such game, device, machine, contrivance, lottery, gift enterprise, handbook or facility.

(8) Conviction of the licensee, his agents, servants, or employes for:

(a) The sale or use upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances;

(b) Knowingly permitting the sale or use by patrons upon the licensed premises of those items described in KRS 218A.050 to 218A.130 as controlled substances.

Section 20. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of *any* [a] felony, [or of any] misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years.

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in KRS 244.087.

(c) Is not a citizen of the United States [or has not had an actual bona fide residence in this Commonwealth for at least one (1) year next before the date of his employment, provided the above residence requirement shall not apply to persons employed by distillers, brewers, operators of dining cars or transporters engaged in interstate commerce].

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause [, or has been convicted of a violation of any of the provisions of chapter 241, 243 or 244 or of any other such act or ordinance].

(2) Violation of this section shall subject both employer and employe to penalties provided in this chapter, and shall be cause for revocation of license.

Section 21. KRS 244.120 is amended to read as follows:

(1) No person licensed to sell alcoholic beverages at retail shall cause, suffer, or permit the licensed premises to be disorderly [or allow criminals and people of ill repute to congregate on the premises].

(2) Acts which constitute disorderly premises consist of permitting patrons to cause public inconvenience, annoyance or alarm, or wantonly creating a risk through:

(a) Engaging in fighting or in violent, tumultuous or threatening behavior; or

(b) Making unreasonable noise; or

(c) Refusing to obey an official order to disperse issued to maintain public safety in dangerous proximity to a fire, hazard or other emergency; or

(d) Creating a hazardous or physically offensive condition by any act that serves no legitimate purpose.

Section 22. KRS 244.130 is amended to read as follows:

(1) Except in conformity with regulations of the board, no licensee under KRS 243.020 to 243.670 shall:

(a) Advertise or cause or permit to be advertised in any manner any product which he is licensed to manufacture or sell; nor

(b) Have or exhibit in a window any display of alcoholic beverages.

(2) Subsection (1) shall not prohibit:

(a) Advertising in newspapers, magazines or periodicals having a general circulation among regular paying subscribers or patrons*;*

(b) Promotional advertising on radio or television limited to factual descriptions of products the licensee is permitted to manufacture or sell;

(c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams.

Section 23. KRS 244.260 is amended to read as follows:

(1) No wholesaler shall purchase, import or keep upon the licensed premises or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] each of distilled spirits or *one hundred (100) milliliters* [six (6) ounces] of wine, and not exceeding *1.75 liters* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, as received from the distiller, rectifier, vintner or wholesaler, as the case may be. Such containers shall at all times have affixed to them such labels as may be required by the regulations of the board, together with all necessary federal revenue and state excise tax stamps.

(2) No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size, except that wine may be sold in barrels or kegs. "Case" as used in this section means a carton of containers aggregating not less than *six (6) liters* [two and four-tenths (2-4/10)] nor more than *twelve (12) liters of* [three (3)] wine [gallons].

Section 24. KRS 244.300 is amended to read as follows:

No retailer of distilled spirits and wine shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit, except that a bona fide private club or hotel holding a license may sell on reasonable credit to its members or registered guests*; provided, however, sales by retail drink when purchased with a meal at a restaurant which receives fifty percent (50%) or more of its gross annual income from the sale of food and has a minimum seating capacity of fifty (50) people at tables may be made by use of national or bank credit cards wherein the credit card company has agreed to payment to the licensee for such charges. However, nothing in this section shall be construed to authorize a licensee to issue his own credit cards or extend a personal credit to patrons.*

Section 25. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original package containing quantities of not exceeding *1.75 liters* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine, and containing not less than *seven hundred fifty (750) milliliters* [twenty (20) ounces] each of distilled spirits, and not less than *one hundred (100) milliliters* [six (6) ounces] each of wine not exceeding fourteen per cent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than *three hundred fifty-five (355) milliliters* [twelve (12) ounces]. If the licensee also holds a retail package license, the containers may contain as little as *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits and *one hundred (100) milliliters* [six (6) ounces] of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue [and state excise] tax stamps.

Section 26. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package, other than a railroad system licensee, shall purchase, keep upon the licensed premises or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than *two hundred (200) milliliters* [eight (8) ounces] of distilled spirits or *one hundred (100) milliliters* [six (6) ounces] of wine and not exceeding *1.75 liters* [one (1) quart] each of distilled spirits or *two hundred twenty (220) liters* [fifty-five (55) gallons] each of wine.

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue [and state excise] tax stamps.

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

SECTION 27. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

No brewer shall discriminate among wholesalers concerning prices charged for malt beverages.

SECTION 28. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Every manufacturer, distiller, rectifier, blender, or vintner of distilled spirits or wine shall, before offering for sale to any licensed wholesaler in the Commonwealth of Kentucky any brand of distilled spirits or wine, file with the Board an affirmation of corporate policy with regard to sales of all brands owned, controlled, sold, offered for sale, franchised or distributed by such manufacturer, distiller, rectifier, blender, or vintner in the Commonwealth. The affirmation shall certify that the manufacturer, distiller, rectifier, blender or vintner shall not willfully sell or offer for sale any distilled spirits or wine of a particular brand, proof or size in any state in the United States or the District of Columbia at a price lower than the price such distilled spirits and wine are sold or offered for sale to licensed Kentucky wholesalers.

(2) In determining the lowest price for which any item of distilled spirits and wine was sold in any other state or in the District of Columbia, or to any state or state agency which owns and operates retail liquor stores, appropriate reductions shall be made to reflect all discounts, rebates, free goods, allowances and other inducements of any kind whatsoever offered or given to any such wholesaler or state or state agency, as the case may be, purchasing such item in such other state or in the District of Columbia; moreover nothing contained in this section shall prevent differentials in price which make allowance for differences in state taxes and fees, and in the actual cost of delivery. As used in this paragraph, the term "state taxes or fees" shall mean the excise taxes imposed or the fees required by any state or the District of Columbia upon or based upon the gallon of liquor.

(3) Quantity discount prices for distilled spirits and wine sold to wholesalers of other states or to the District of Columbia, and to states which own and operate retail liquor stores shall not be considered to be a violation of the manufacturer's, distiller's, rectifier's, blender's or vintner's affirmation if such discount prices are also offered to Kentucky wholesalers for purchases in the same quantities. To the extent any discounts, rebates, allowances or other inducements are of this Act, offered or given in any state of the United States or the District of Columbia and the effect thereof is to reduce the price of such item elsewhere below that at which it is being sold in the Commonwealth during the same period, then the licensee filing the affirmation statement shall list thereon discounts, rebates, allowances and other inducements per case and show to what extent that the price elsewhere for the same brand and size is less than the price at which the item is sold in the Commonwealth. The same discounts, rebates, allowances and other inducements shall be offered to wholesalers in the Commonwealth with respect to such item within a twelve (12) month period, including the month in which they are given elsewhere.

(4) Any person, firm or corporate official who makes a false statement in any affirmation filed hereunder shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months or both.

(5) Any manufacturer, distiller, rectifier, blender, or vintner, who fails to file such affirmation or willfully violates the pledges contained herein shall have its license to import and sell alcoholic beverages in the state suspended by the Board for a period not less than one (1) year.

(6) For the purpose of carrying out the provisions of this Act, each licensed manufacturer, distiller, rectifier, blender or vintner offering for sale to any licensed wholesaler in the Commonwealth of Kentucky any brand of distilled spirits or wine shall file the affirmation as provided by this section with the Board not later than sixty (60) days after passage of this Act, and thereafter shall file the same in accordance with the provisions of this section.

(7) The Board may make such regulations and investigations as it deems necessary for enforcing the provisions of this section.

The Committee on Business Organizations and Professions reported **HB 268,** with Committee Amendment attached thereto, and **HB 548** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the calendar.

HB 268, AN ACT AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.075 is amended to read as follows:

(1) The state alcoholic beverage control board shall, for the purpose of regulating the location of retail package liquor and retail drink licenses in cities of the first *and second* class, divide such cities into "downtown business areas" and "combination business and residential areas."

(2) No retail package liquor or retail drink license shall be granted or issued to any licensee who proposes to sell retail package liquor or liquor by the drink at a location within seven hundred feet (700) of the location of any similar establishment in any combination business and residential area, nor shall such

license be granted or issued to any licensee who proposes to operate at a location in a combination business and residential area within seven hundred feet (700) of a similar establishment located in a downtown business area. This section shall not affect location of such establishments in downtown business areas of such cities.

(3) The distance between location of similar establishments as prescribed by this section shall be measured by following the shortest route of ordinary pedestrian travel along public thoroughfares from the nearest point of any present location of any such similar place of business to the nearest point of any proposed location of any such place of business. The measurement shall be taken from the entrance of the existing licensed premises to the entrance of any proposed location.

(4) The location of all establishments licensed to sell at retail distilled spirits by the package or by the drink, or both, on June 17, 1954 shall not be affected by the terms of this section and this section shall not apply to existing licensed locations or to the renewal of licenses therefor, or to transfers thereof. The distance limitation prescribed by this section shall not affect any existing licensed location, nor the right of the owner thereof to renew or transfer the license for such location. The location of any such existing license shall not be transferred to a new location in violation of this section, except that the location of any presently existing license or renewal thereof in case of destruction of property or loss of lease through failure of the landlord to renew such lease may be transferred to a location which is not closer than half the distance between the existing licensed premises and the nearest similar licensed premises.

Section 2. KRS 243.630 is amended to read as follows:

(1) No license under KRS 243.020 to 243.670 to any person for any licensed premises shall be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section each railroad dining car shall be deemed premises to be separately licensed.

(2) Notwithstanding any provision to the contrary, no licensee shall transfer or assign nor shall the board approve any transfer or assignment of any license under KRS 243.020 to 243.670 from the time an investigation has commenced for alleged violations of Chapters 241, 242, 243 or 244 and until a final disposition of the matter occurs either by order of the board or by judicial decision in the event that an order of the board is appealed. If a license is suspended, no transfer or assignment shall be made or approved until the suspension period has expired.

The Committee Amendment to **HB 268** is as follows:

Amend printed copy of **HB 268** on page 3, line 15, after the word "investigation" add the words "*of the department of alcoholic beverage control*".

HB 548, AN ACT relating to thoroughbred and appaloosa racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct thoroughbred racing and appaloosa racing at a thoroughbred race meeting within the commonwealth of Kentucky during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before a day fixed by the commission. The application shall specify the location of the track and the days on which racing is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by rule require.

(2) The commission shall as soon as practicable, but in no event later than March 1 in any calendar year award dates for racing in the commonwealth during the year. In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after March 1 additional racing dates to make up for those dates canceled by such flood, fire, or inclement weather. The commission may issue such license to conduct a thoroughbred race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employes, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposes to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would

serve to nurture, promote, develop, or improve the thoroughbred industry in the commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under KRS 230.210 to 230.360 shall specify among other things the name of the person to whom issued, the address and location of the track where the thoroughbred race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a thoroughbred race meeting at any track not specified therein. However, if the track specified becomes unsuitable for thoroughbred racing or appaloosa racing because of flood, fire or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of such track willingly consents to the use thereof.

(5) Thoroughbred racing dates may be awarded and licenses issued authorizing thoroughbred racing and appaloosa racing at a thoroughbred race meeting on any day of the year [except Sundays. No thoroughbred racing or appaloosa racing at thoroughbred race meetings shall be held or conducted on any Sunday]. Thoroughbred racing or appaloosa racing at thoroughbred race meetings shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employe of any association in those instances where it has reason to believe that the official or employe has been guilty of any dishonest practice in connection with thoroughbred racing or appaloosa racing at a thoroughbred race meeting or has failed to comply with any condition of his license or has violated any law or any rule or regulation of this commission.

(7) Every thoroughbred race not licensed under this section or appaloosa race not licensed by this section or KRS 230.410 to 230.447 is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the circuit court of the county where the unlicensed race is proposed to take place.

Motions, Petitions and Communications

Representative Gray moved that the rules be suspended for the purpose of making a motion in regard to a vote change. Agreed.

Representative Gray requested that his vote be changed from "yea" to "nay" on **HB 234.** Agreed.

Representative McBee moved that **HB 500** be taken from the Committee on Public Utilities and Transportation and reassigned to the Committee on Judiciary-Courts. Agreed.

Representative Rattliff moved that the rules be suspended for the purposed of making a request in regard to voting. Agreed.

Representative Rattliff requested that he be recorded as voting "yea" on **SB 104.** Agreed.

Representative Riner moved that her name be removed as a co-sponsor of **HB 403.** Agreed.

Representative McKinney moved that the rules be suspended for the purpose of making a request in regard to voting. Agreed.

Representative McKinney requested that he be recorded as voting "yea" on **SB 104.** Agreed.

Representative Romines moved that the rules be suspended for the purpose of introduction of and action on **HR 65.** Agreed.

HR 65, by Representative Romines: A RESOLUTION to adjourn the House of Representatives on Tuesday, February 21, 1978, in money and honor of William Luther Ward.

Representative Romines moved the adoption of the following **HR 65:**

HR 65, A RESOLUTION to adjourn the House of Representatives on Tuesday, February 21, 1978, in memory and honor of William Luther Ward.

WHEREAS, William Luther Ward defended both his community and nation by proudly serving as a member of the local police department and the United States Air Force; and

WHEREAS, William Luther Ward inspired religious dedication through his fervent participation in the West Point Baptist Church; and

WHEREAS, William Luther Ward displayed his love of moral development and brotherhood for youth through his untiring involvement for eighteen years in the local scouting programs; and

WHEREAS, William Luther Ward served as a staunch supporter of cultural advancement through his membership in the Stern Wheelers Square Dancing Club and the Active Senior Citizens Club;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Tuesday, February 21, 1978, it does so in honor and memory of William Luther Ward.

Section 2. That the Clerk be directed to transmit a copy of this resolution to the family of William Luther Ward.

HR 65 was adopted by voice vote.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 327, HB 328;** Representative Craddock, **HB 247;** Representative Hancock, **HB 230;** Representative Imes, HR 21; Representative P. Richardson, **HB 470;** Representative F. Smith, **HB 567;** and Representative White, **HB 552.**

The Clerk read the following communication from the Honorable John S. Palmore, Chief Justice, Supreme Court of Kentucky in regard to the necessity for an additional judge of the District Court for the 27th Judicial District.

Hon. Thelma Stovall
President of the Senate

Hon. William C. Kenton
Speaker of the House of Representatives

Pursuant to Section 113(3) of the Constitution the Supreme Court has certified to the General Assembly the necessity for an additional judge of the District Court for the 27th Judicial District, consisting of Knox and Laurel Counties. The certificate is transmitted herewith.

s/John S. Palmore
Chief Justice

The Speaker announced the following appointments to the Return Assembly Ball Committee: Representative Fitzgerald, Deskins, Hancock, Bendl, and Tobin.

Orders of the Day

HB 208 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 208** be passed.

Representative Donnermeyer moved the adoption of the following Floor Amendment No. 2 to **HB 208:**

Amend printed copy of **HB 208** on page 1, line 8, after the word "Contract" delete the period. Insert a comma, and the following "only if there is also a coordination of premiums".

On the roll call the vote was yeas 47-HB W. Allen, Bennett, Beshear, Blandford, Boswell, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Haering, Hurst, Isler, LeMaster, Little, Mann, Maynard, McBee, McKinney, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Priddy, Rattliff, Robinson, Romines, Siemens, F. Smith, R. Smith, Stewart, Thomas, Turner, Van Horn, Weinberg, White, Williams. Nays 42-Adams, J. Allen, Bendl, Blythe, Boatwright, Brinkley, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Foster, Guy, Hancock, Head, Hines, Holbrook, Holloway, Imes, Jones, Kenton, Kleier, Layman, List, Marcum, Morris, O'Brien, Plummer, Richards, B. Richardson, P. Richardson, Riner, Sale, Schmidt, Stone, Tobin, Trevey, Wells, Worthington, Wright, Yates.

The Floor Amendment No. 2 to **HB 208** was adopted.

Representative Morris moved that **HB 208,** as amended, be passed.

On the roll call the vote was yeas 28-Bendl, Bennett, Boatwright, Boswell, Brinkley, Bruce, Clapp, DeMarcus, Dietz, Donnermeyer, Head, Isler, Mann, Marcum, McKinney, Morris, Nett, Noe, O'Brien, Pearman, Petty, Rattliff, Riner, Romines, Sale, F. Smith, Thomas, Yates. Nays 67-Adams, J. Allen, Arnold, Benson, Beshear, Blandford, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Hurst, Imes, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, May, Maynard, McBee, Overstreet, Patrick, Plummer, Richards, B. Richardson, P. Richardson, Robinson, Schmidt, Siemens, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright.

HB 208, as amended, was defeated.

Representative White moved that the vote by which **HB 208,** as amended, was defeated be reconsidered and said motion be postponed indefinitely. Agreed.

HB 247, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Amendment No. 1 to **HB 247.** Agreed.

Representative Fitzgerald moved the adoption of the Committee Amendment No. 2 to **HB 247.** Agreed.

Representative Fitzgerald moved that **HB 247,** as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates. Nays 7-Crupper, Hancock, Head, Lindsay, Little, Riner, Worthington.

HB 247, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 247,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 227 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the following Floor Amendment No. 1 to **HB 227:**

Amend printed copy of **HB 227** on page 2, lines 8 and 9, by deleteing the words “taking of” and inserting in lieu thereof the words “damage to“;

and on page 2, lines 9 and 10, by deleting the words “, within the meaning of Kentucky Constitution Section 13 or 242“;

and on page 2, line 11, by deleting the word “taking” and inserting in lieu thereof the word “damage“;

and on page 2, lines 14 and 15, by deleting the words “taking of” and inserting in lieu thereof the words “damage to“;

and on page 2, lines 15 and 16, by deleting the words “, within the meaning of Kentucky Constitution Section 13 or 242,“;

and on page 2, line 20, by deleting “taking” and inserting in lieu thereof “damage“;

and on page 2, line 22, by deleting “taken” and inserting in lieu thereof “damaged“.

Agreed.

Representative Deskins moved that **HB 227,** as amended, be passed.

On the roll call the vote was yeas 80-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O’Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays3-W. Allen, DeMarcus, Trevey.

HB 227, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 227,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 29, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Amendment No. 1 to **HB 29.** Agreed.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 1 to **HB 29:**

Amend printed copy of **HB 29** on page 1, line 3, by inserting after the word “may” the following: “, as permitted by Section 172A of the Constitution,“;

and on page 1, line 13, by deleting the word “existing“;

and on page 1, line 13, by inserting between the word “districts” and the period “.” the following: “, but any expansion of the boundaries of a service district shall require a petition signed by a majority of the registered voters, as of the last general election, in the new territory to be incorporated“.

Agreed.

Representative Fitzgerald moved that **HB 29,** as amended, be passed.

On the roll call the vote was yeas 62-W. Allen, Arnold, Bennett, Benson, Blandford, Boswell, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Imes, Isler, Jones, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Mann, May, Maynard, McBee, Nett,Noe, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Romines, Sale, Schmidt, F. Smith, Stone, Trevey, Turner, Van Horn, Weinberg, Williams, Worthington. Nays 21-Adams, J. Allen, Bendl, Brown, Bruce, Clarke, Craddock, DeMarcus, Holloway, Marcum, Morris, O'Brien, Overstreet, Richards, Riner, Siemens, R. Smith, Tobin, Wilborn, Wright Yates.

HB 29, as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 29,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 51, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Substitute to **HB 51.** Agreed.

Representative Foster moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 51:**

Amend printed copy of **HB 51** Committee Substitute on page 1, line 21, after the word "county." insert the following: "any district organized for educational purposes such as a public library district";"

and on page 3, line 7, after the word "water" by deleting the words ", libraries and other educational services";

and on page 19, line 25, by deleting the words "Section 9 (6)" and inserting therefor "Section 9 (7)";

and on page 33, lines 4 through 26, by deleting lines 4 through 26;

and on page 34, by deleting all of page 34;

and on page 35, by deleting all of page 35;

and on page 36, by deleting all of page 36;

and on page 37, lines 1 through 19, by deleting all of lines 1 through 19;

and on page 37, line 20, by deleting the words "SECTION 33." and inserting therefor "SECTION 27.";

and on page 38, line 1, by deleting the words "SECTION 34." and inserting therefor "SECTION 28."

and on page 38, line 7, by deleting the words "SECTION 35." and inserting therefor "SECTION 29.";

and on page 39, line 1, by deleting the words "SECTION 36." and inserting therefor "SECTION 30.";

and on page 39, line 8, by deleting the words "SECTION 37." and inserting therefor "SECTION 31.";

and on page 39, line 16, by deleting the words "SECTION 38." and inserting therefor "SECTION 32.";

and on page 40, line 9, by deleting the words "SECTION 39." and inserting therefor "SECTION 33.";

and on page 40, line 25, by deleting the words "SECTION 40." and inserting therefor "SECTION 34.";

and on page 41, line 16, by deleting the words "SECTION 41." and inserting therefor "SECTION 35.";

and on page 42, line 25, by deleting the words "SECTION 42." and inserting therefor "SECTION 36.";

and on page 44, line 2, by deleting the words "SECTION 43." and inserting therefor "SECTION 37.";

and on page 44, line 12, by deleting the words "SECTION 44." and inserting therefor "SECTION 38.";

and on page 44, line 25, by deleting the words "SECTION 45." and inserting therefor "SECTION 39.";

and on page 46, line 5, by deleting the words "SECTION 46." and inserting therefor "SECTION 40.";

and on page 46, line 13, by deleting the words "SECTION 47." and inserting therefor "SECTION 41.";

and on page 46, line 18, by deleting the words "SECTION 48." and inserting therefor "SECTION 42.";

and on page 48, lines 8-26, by deleting all of lines 8 through 26;

and on page 62, lines 24 through 26, by deleting all of lines 24 through 26;

and on page 63, lines 1 through 21, by deleting all of lines 1 through 21.

Representative DeMarcus moved that the Floor Amendment No. 1 to the Committee Substitute to **HB 51** be laid on the table.

On the roll call the vote was yeas 23-Blandford, Boatwright, Burch, Crupper, Cyrus, Davenport, DeMarcus, Guenthner, Head, Holbrook, Holloway, Hurst, Isler, Little, Marcum, McKinney, O'Brien, Robinson, Sale, Trevey, Van Horn, Wilborn, Yates. Nays 69-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Hines, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, May, Maynard, McBee, Morris, Nett, Noe, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmdit, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Wells, White, Williams, Worthington, Wright.

The motion that the Floor Amendment No. 1 to the Committee Substitute to **HB 51** be laid on the table was rejected.

Representative Foster moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 51.** Agreed.

Representative Fitzgerald moved that **HB 51,** by way of Committee Substitute as amended, be laid on the table.

On the roll call the vote was yeas 73-J. Allen, W. Allen, Bendl, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, List, Little, Marcum, Maynard, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright, Yates. Nays 16-Adams, Arnold, Craddock, DeFalaise, Donnermeyer, Gray, Hancock, Imes, LeMaster, May, Noe, Petty, Richards, Schmidt, Trevey, White.

HB 51, by way of Committee Substitute as amended, was laid on the table.

SB 117, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of the following Floor Amendment No. 1 to **SB 117:**

Amend printed copy of **SB 117** on page 2, after line 1 by adding the words "Section 4. This Act shall be known as the Herbie Deskins-Kelsey Friend Tax Relief For Flood Victims Act."

Agreed.

Representative Deskins moved that **SB 117,** as amended, be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Brinkley, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 2-Clapp, Layman.

SB 117, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 117,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 157** and HB 86 be deferred and that they retain their postion in Orders of the Day. Agreed.

HB 377 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 46-Adams, J. Allen, Bendl, Bennett, Beshear, Blandford, Boswell, Brown, Bruce, Burch, Clarke, Craddock, Cyrus, Dawahare, DeMarcus, Donnermeyer, Dunn, Fitzgerald, Guenthner, Guy, Head, Holbrook, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, List, Mann, Maynard, McBee, Morris, Noe, Petty, Richards, B. Richardson, P. Richardson, Sale, Siemens, F. Smith, Stewart, Turner, Weinberg, Wells, Wilborn. Nays 32-W. Allen, Boatwright, Brinkley, Burnette, Crupper, Davenport, Deskins, Dietz, Gray, Haering, Hancock, Imes, Johnson, Layman, Lindsay, Little, Marcum, Overstreet, Patrick, Pearman, Plummer, Rattliff, Riner, Robinson, Schmidt, R. Smith,Tobin, Trevey, Van Horn, Williams, Worthington, Wright.

HB 377 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 377** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 383 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 52-Adams, J. Allen, Bendl, Bennett, Beshear, Blandford, Boswell, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Davenport, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hurst, Isler, Kenton, Kidd, Kleier, Lindsay, List, Mann, McBee, Morris, Nett, Noe, O'Brien, Petty, Richards, B. Richardson, P. Richardson, Sale, Schmidt, F. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wilborn, Wright, Yates.

Nays 25-W. Allen, Boatwright, Brinkley, Burnette, Crupper, Dawahare, DeMarcus, Deskins, Fitzgerald, Holbrook, Imes, Layman, Little, Marcum, May, Overstreet, Patrick, Pearman, Plummer, Rattliff, Riner, R. Smith, Thomas, Trevey, Worthington.

HB 383 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 383** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 406, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved the adoption of the following Floor Amendment No. 2 to **HB 406:**

Amend printed copy of **HB 406** on page 2, by deleting lines 10 through 17 in their entirety and substituting in lieu thereof the following:

"*(1) The hauling of tobacco from the producer, owner, or grower of tobacco to any warehouse shall not be permitted by any warehouse owner, operator, manager, lessee or proprietor, or by their agents or employees, unless the hauling charges are payed by the owner or grower of the tobacco.*

(2) In all cases in which the hauling of tobacco is contracted for by the warehouse:

(a) The hauling charge rates shall be the same rates charged by an independent hauler or trucker in the area to which the tobacco is being delivered.

(b) An invoice stating the rates and total charges shall be given the owner or grower of tobacco at the time the tobacco is moved from his place of business to the warehouse floor. These invoices shall be numbered and show the name of the owner or grower, total pounds and charges, and a copy shall be retained on file at the warehouse office for one year.

(c) When requested by the owner or grower, a warehouseman may deduct actual hauling charges from the proceeds of the tobacco sale.

(3) In all cases in which the hauling of tobacco is contracted for by the owner or grower with an independent hauler or trucker, the owner or grower shall pay the hauler or trucker for the hauling charges, or may request the warehouse to pay the hauler or trucker an deduct hauling charges from the proceeds of the tobacco sale.

Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 406:**

Amend printed copy of **HB 406** on page 5, after line 6, by adding the following;

"Section 5. KRS 355.9-307 is amended to read as follows:

(1) A buyer in ordinary course of business (subsection (9) of KRS 355.1-201) other than a person buying farm products from a person engaged in farming operations takes free of a security interest created by his seller even though the security interest is perfected and even though the buyer knows of its existence.

(2) If any tobacco crop subject to the lien of a security interest is sold at public auction through a duly licensed tobacco warehouse in the ordinary course of business, a bona fide purchaser for value of such crop shall take title thereto free and clear of any such lien, and the warehouseman selling such tobacco crop shall not be liable to the holder of such lien, unless written notice by certified mail, return receipt requested or by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identification of the property subject to lien, are given to the tobacco warehouseman prior to the payment of the proceeds of sale to the owner or producer of such tobacco crop.

(3) *A tobacco warehouseman even though he receives the proper notice as provided in subsection (2) shall not be liable to the holder of such lien unless there is a showing that he deliberately and intentionally disregarded the notice.*

(4) [(3)] In the case of consumer goods and in the case of farm equipment having an original purchase price not in excess of $500 (other than fixtures, see KRS 355.9-313), a buyer takes free of a security interest even though perfected if he buys without knowledge of the security interest, for value and for his own personal, family or household purposes or his own farming operations unless prior to the purchase the secured party has filed a financing statement covering such goods.

(5) [(4)] If any registered breed of horse, the racing of which is regulated by KRS Chapter 230, subject to the lien of a security interest is sold at public auction in the ordinary course of business by an organization engaged in the business of selling such horses at public auction, a bona fide purchaser for value of such horse shall take title thereto free and clear of any such lien, and the organization selling such horse shall not be liable to the holder of such lien, unless written notice by registered mail of such lien and the amount thereof, the name and address of the debtor and proper identificaiton of the horse subject to lien are given to the organization prior to the time of sale."

Agreed.

Representative Blandford moved that **HB 406,** as amended, be passed.

On the roll call the vote was yeas 63-J. Allen, Arnold, Bennett, Benson, Blandord, Boswell, Brinkley, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holloway, Hurst, Imes, Johnson, Kenton, Kidd, Layman, LeMaster, List, Little, Mann, McKinney, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Sale, Siemens, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates. Nays 15-W. Allen, Beshear, Blythe, Boatwright, Bruce, Carpenter, DeFalaise, Dunn, Holbrook, Marcum, Morris, Overstreet, Patrick, Riner, Robinson.

HB 406, as amended, was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 406,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 21 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that **HR 21** be passed.

On the roll call the vote was yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HR 21 was passed and the title agreed.

Representative Burnette moved that the vote by which **HR 21** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 36 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved that **HB 36** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright. Nays 3-W. Allen, DeMarcus, Worthington.

HB 36 was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 36** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 59 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 59** be passed.

Representative Tobin moved that **HB 59** be laid on the table.

On the roll call the vote was yeas 27-J. Allen, Bendl, Bennett, Beshear, Blandford, Burch, Burnette, Clarke, Craddock, DeMarcus, Donnermeyer, Hines, Hurst, Johnson, Kidd, Lindsay, Mann, Marcum, Maynard, Nett, Rattliff, Richards, Schmdit, R. Smith, Thomas, Tobin, Wright. Nays 61-Adams, W. Allen, Blythe, Boatwright, Boswell, Brinkley, Clapp, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Layman, LeMaster, List, Little,May, McBee, McKinney, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Yates.

The motion that **HB 59** be laid on the table was rejected.

On the roll call the vote was yeas 50-Adams, W. Allen, Blythe, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Crupper, Cyrus, Dawahare, Deskins, Deitz, Dunn, Fitzgerald, Foster, Guenthner, Guy, Head, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Layman, LeMaster, List, May, O'Brien, Overstreet, Patrick, Pearman, Priddy, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, Stewart, Stone, Trevey, Turner, Van Horn, Williams, Worthington. Nays 43-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Bruce, Burch, Clapp, Clarke, Craddock, DeFalaise, DeMarcus, Donnermeyer, Gray, Hancock, Hines, Johnson, Kidd, Kleier, Lindsay, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, Petty, Plummer, Rattliff, Richards, Schmdit, Siemens, R. Smith, Thomas, Tobin, Weinberg, Wells, Wilborn, Wright, Yates.

HB 59 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 59** was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 46-W. Allen, Carpenter, Crupper, Cyrus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Kenton, Layman, LeMaster, List, May, Overstreet, Patrick, Pearman, Priddy, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, Stewart, Stone, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington. Nays 39-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Burch, Clapp, Clarke, Craddock, DeFalaise, DeMarcus, Donnermeyer, Gray, Hines, Johnson, Kidd, Kleier, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, Petty, Plummer, Rattliff, Richards, B. Richardson, Schmidt, Siemens, R. Smith, Thomas, Tobin, Wright, Yates.

The motion that the vote by which **HB 59** was passed be reconsidered and said motion be postponed indefinitely was adopted.

HB 118, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the adoption of the Committee Substitute to **HB 118.** Agreed.

Representative Weinberg moved that **HB 118,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 65-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dunn, Fitzgerald, Gay, Gray, Guy, Hancock, Head, Hines, Holbrook, Hurst, Imes, Kenton, Kidd, Kleier, Layman, Lindsay, Little, Marcum, May, Maynard, McKinney, Morris, Noe, Overstreet, Patrick, Pearman, Plummer, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Williams, Worthington, Wright. Nays 23-Benson, Beshear, Blythe, Clarke, Craddock, DeFalaise, Dietz, Donnermeyer, Foster, Haering, Isler, LeMaster, List, Mann, McBee, Nett, O'Brien, Sale, Schmdit, Siemens, Trevey, Wilborn, Yates.

HB 118, by way of Committee Substitute, was passed and the title agreed to.

Representative Weinberg moved that the vote by which **HB 118,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

Speaker Pro Tempore Clapp presiding.

HB 209 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 209** be passed.

On the roll call the vote was yeas 75-Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, Wright, Yates. Nays 7-W. Allen, Blythe, Carpenter, Guenthner, Plummer, Robinson, Wilborn.

HB 209 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 209** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 210 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved that **HB 210** be passed.

On the roll call the vote was yeas 91-Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Clarke, Craddock.

HB 210 was passed and the title agreed to.

Representative Brinkley moved that the vote by which **HB 210** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 28, SB 109, SB 236, SB 245, SB 252,** and **HB 69.**

Report on Enrolled Bills

HB 49, HB 126, and **HCR 12** delivered to the Senate. Ordered delivered to the Governor.

HB 301, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of the Committee Amendment No. 1 to **HB 301.** Agreed.

Representative DeFalaise moved that **HB 301,** as amended, be passed.

On the roll call the vote was yeas 80-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Hurst, Imes, Isler, Jones, Kidd, Layman, LeMaster, Lindsay, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates. Nays 5-Burnette, Holbrook, Holloway, Pearman, Trevey.

HB 301, as amended, was passed and the title agreed to.

Representative DeFalaise moved that the vote by which **HB 301**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 307 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 307** be passed.

On the roll call the vote was yeas 80-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McKinney, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 10-Brinkley, Brown, DeMarcus, Donnermeyer, Gray, Mann, McBee, Robinson, F. Smith, Williams.

HB 307 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 307** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 316 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HB 316** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Wright, Yates. Nays 3-Blythe, Hancock, P. Richardson.

HB 316 was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 316** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 340 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilborn moved that **HB 340** be laid on the Clerk's desk. Agreed.

HB 358 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardsonmoved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 89-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McKinney, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 358 was passed and the title agreed to.

Represntative B. Richardson moved that the vote by which **HB 358** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 360 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of the following Floor Amendment No. 1 to **HB 360:**

Amend printed copy of House Bill 360 on page 4, after line 12, insert the following: "*(d) All sales made by non-profit educational organizations whose proceeds are used for school programs are not taxable.*"

and on page 4, line 13, change "*(d)* to *(e)*"

Agreed.

Representative B. Richardson moved that **HB 360,** as amended, be passed.

On the roll call the vote was yeas 90-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 0.

HB 360, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 360,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 404 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 91-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 1-Schmidt.

HB 404 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 404** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 75, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kidd moved the adoption of the Committee Amendment No. 1 to **HB 75.** Agreed.

Rrepresentative Kidd moved that **HB 75,** as amended, be passed.

On the roll call the vote was yeas 80-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 8-Adams, W. Allen, Clarke, Crupper, Hancock, Little, Pearman, Schmidt.

HB 75, as amended, was passed and the title agreed to.

Representative Kidd moved that the vote by which **HB 75,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Report on Enrolled Bills

The Committee onEnrollment reported **HB 69** had been examined and found correctly enrolled. **HB 69** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Announcements

Representative B. Richardson moved that when the House adjourns, it do so by voice vote and until 2:00 p.m. on February 22, 1978. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 631, by Representative Jones: AN ACT relating to financing mass transportation programs.

HB 632, by Representatives Deskins and Holbrook: AN ACT relating to insurance.

HB 633, by Representative Clarke: AN ACT relating to engineers and land surveyors.

HB 634, by Representative Donnermeyer:AN ACT relating to unemployment insurance.

HB 635, by Representatives Holbrook and Cyrus: AN ACT relating to the compensation of county officials.

HB 636, by Representatives Kleier, Burnette, Haering, Wright, and Johnson: AN ACT relating to prescription eyeglasses.

HB 637, by Representative Kleier: AN ACT relating to an architectual appeals board and making an appropriation therefor.

HB 638, by Representatives Donnermeyer and Schmidt: AN ACT relating to retirement system.

HB 639, by Representative Kleier: AN ACT relating to the physically handicapped.

HB 640, by Representative Imes: AN ACT relating to the Capital Plaza Authority.

HB 641, by Representative Imes: AN ACT relating to divorce.

HB 642, by Representative Bendl: AN ACT relating to travel agencies.

HB 643, by Representative Bendl: AN ACT relating to the Kentucky advisory board for day care centers and homes.

HB 644, by Representatives Hancock, Crupper, Boswell, Davenport, Fitzgerald, Wilborn, Isler, DeMarcus, Benson, P. Richardson, Romines, Little, Brown, Carpenter, Pearman, Adams, May, Robinson, Beshear, and Van Horn: AN ACT relating to retirement benefits.

HB 645, by Representatives Clarke and Fitzgerald: AN ACT relating to revenue and taxation.

HB 646, by Representative Siemens: AN ACT relating to city civil service.

HB 647, by Representatives Worthington, Boswell, Kenton, Layman, List, May, Plummer, Trevey, Petty, and Arnold: AN ACT relating to Nuclear Waste Disposal.

HB 648, by Representatives Worthington, Boswell, Kenton, Plummer, May, Layman, Trevey, Petty, List, and Arnold: AN ACT relating to nuclear waste.

HCR 64, by Representatives Haering, Wright and Kleier: A CONCURRENT RESOLUTION directing a study of regional sewerage systems.

HR 66, by Representatives F. Smith, Noe and Thomas: A RESOLUTION commending the employes of the General Assembly and the staff of the Legislative Research Commission.

HCR 67, by Representative Richards: A CONCURRENT RESOLUTION directing a study of the educational programs for exceptional education and vocational education.

HCR 68, by Representative Imes: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study methods of facilitating population calculations for, and and legal requirements relating to, reapportionment and redistricting.

HCR 69, by Representative Beshear: A CONCURRENT RESOLUTION directing a study of land use planning for Kentucky.

HCR 70, by Representatives Kenton, Worthington, Boswell, Arnold, Layman, List, May, Petty, Plummer and Trevey: A CONCURRENT RESOLUTION directing the formation of a Special Advisory Committee on Nuclear Waste Disposal.

HCR 71, by Representative B. Richardson: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the changes which would be required in the operation of the General Assembly of the Commonwealth of Kentucky and the Legislative Research Commission of legislators serve an interim before serving in a session.

HCR 72, by Representatives Benson, Siemens and Mann: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of alternate methods of pooling city pensionfunds to increase investment yields.

HCR 73, by Representatives Dunn, P. Richardson, Bennett, Benson, Davenort, Donnermeyer and Wright: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the Kentucky Revised Statutes relating to contested elections for the purpose of clearly defining the procedures for contesting or recounting any election and making such procedures consistent for all elections.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 579, HB 578, HB 576, HB 516, HB 536, HB 509.**

State Government: **SB 35, HCR 17, HR 56, HB 527, HB 577.**

Appropriations and Revenue: **HB 397, HB 504, HB 603.**

Judiciary-Courts: **HB 500, HB 414.**

Judiciary-Statutes: **HB 557.**

Cities: **HB 563, HB 392, HB 495.**

Announcements (continued)

The Clerk announced a meeting of the Committe on Rules five minutes after adjournment.

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions: Floor Amendment No. 1 to **HR 47,** by Representative Imes; Floor Amendment No. 1 to **HB 33,** by Representative Fitzgerald; Floor Amendment No. 1 to the Committee Substitute to **HB 86,** Representative LeMaster; Floor Amendment No. 2 to Committee Substitute to **HB 157,** Representative B. Richardson; Floor Amendment No. 5 to **HB 332,** Representative F. Smith; Floor Amendment No. 6 to **HB 332,** Representative Kleier; Floor Amendment No. 1 to **HB 335,** Representative Williams; Floor Amendmet No. 1 to **HB 393,** Representative Schmidt.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, February 22, 1978. Agreed.

WEDNESDAY, FEBRUARY 22, 1978

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Henry Hanna, Radcliff Christian Church, Radcliff, Kentucky.

The roll was called. All present except Representative Gay.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 21, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 649, by Representative B. Richardson: AN ACT relating to the State Law Library.

HB 650, by Representatives Siemens and Yates: AN ACT relating to emergency services.

HB 651, by Representative Clarke: AN ACT relating to medical records.

HJR 74, by Representative B. Richardson: A JOINT RESOLUTION directing the Legislative Research Commission to establish an office of Congressional liaison, and making an appropriation therefor.

HR 75, by Representative Bruce: A RESOLUTION requesting that state funds deposited in State National Bank of Frankfort, Kentucky, be more equitably distributed among all banks in Frankfort, Kentucky.

HR 76, by Representatives Riner and Imes: A RESOLUTION concerning the fourth annual Lucy Harth Smith-Atwood S. Wilson Award for civil and human rights in education.

HR 77, by Representative B. Richardson: A RESOLUTION amending Rule 4 of the Rules of the House of Representatives.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 613, HB 614, SB 149.**

Appropriations and Revenue: **HB 608, HB 609, HB 615, HB 630, HB 636, HB 637, HB 645, SB 184.**

Banking and Insurance: **HB 632, SB 72.**

Business Organizations and Professions: **HB 616, HB 633, HB 642, SB 236.**

Cities: **HB 621, HB 646, HCR 69, HR 72.**

Counties and Special Districts: **HB 628, HB 635, HCR 64, SB 206.**

Education: **HB 612, HB 625, HB 626, HB 627, HB 638, HCR 67, SB 28.**

Elections and Constitutional Amendments: **HB 610, HR 73, SB 245, HCR 63.**

Health and Welfare: **HB 639, HB 643, HB 619.**

Highways and Traffic Safety: **HB 618.**

Judiciary-Courts: **HB 617.**

Judiciary-Statutes: **HB 607, HB 611, HB 641, SB 252.**

Labor and Industry: **HB 629, HB 634.**

Public Utilities: **HB 620, HB 623, HB 631.**

State Government: **HB 622, HB 624, HB 640, HB 644, HB 647, HB 648, HCR 68, HCR 70, HR 71, HR 66, SB 109.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Counties and Special Districts: **HB 492.**

Labor and Industry: **HB 290, HB 312, SB 148.**

Education: **SB 60, HJR 61.**

Judiciary-Statutes: **HB 196, HB 519, HB 525.**

Public Utilities and Transportation: **HB 488.**

Cities: **HB 401, HB 423, HB 237, HB 238.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Judiciary-Statutes: **HB 335.**

Report of Committees

The Committee on Rules reported **HB 187, HB 202, HB 221, HB 263, HB 350, HB 354, HB 359, HB 362, HB 369, HB 382, HB 435, HR 47, HCR 29, HJR 13, SB 50, SB 1, SB 17, SB 37, SB 102** have been posted for passage in Orders of the Day, February 23, 1978.

The Committee on Rules reported **HB 87** has been recommitted to the Committee on Cities.

The Committee on Rules reported **HB 214** has been recommitted to the Committee on State Government.

The Committee on Highways and Traffic Safety reported **HB 60,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 60, AN ACT relating to volunteer firemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of his residence, a member of a volunteer fire department in a city of the first through fifth classes shall be issued a license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Fireman," a registration number and an appropriate logo. Each application shall be accompanied by proof of current service as a volunteer fireman as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas. Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current service as a volunteer fireman, the clerk shall issue a current year tag to the applicant to be affixed to the volunteer fireman license plate originally issued to the applicant.

(2) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the volunteer fireman license plate and return it to the county clerk who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom the volunteer fireman license plate was originally issued.

(3) Upon termination of membership as a volunteer fireman, an applicant to whom a volunteer fireman license plate was issued under this section shall, within thirty (30) days, return the volunteer fireman plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer fireman license plates, and in annually issuing a current year tag to be affixed to the volunteer fireman license plate, the county clerk shall receive from each applicant a fee of one dollar ($1). A like fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The commissioner of the department of revenue shall provide such forms as may be necessary to carry out the purpose of this section.

Section 2. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045 (5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than $10.00 nor more than $100 for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than $10.00 nor more than $2,000 or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than $2.00 nor more than $500 or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of $100 which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the department.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who makes a false affidavit to secure a license plate under Section 1 of this Act shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

The Committee Substitute to **HB 60** is as follows:

HB 60, AN ACT relating to volunteer firemen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of his residence, a member of all volunteer fire departments in the Commonwealth shall be issued a license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that such license plates shall bear the inscription "Volunteer Fireman," a registration number and an appropriate standardized logo. Each application shall be accompanied by proof of current service as a volunteer fireman as furnished by the mayor or trustee in such a city or the county judge/executive in appropriate rural areas, and the payment of a one-time fee of twenty-five dollars ($25). Annually thereafter, upon aplication to the county clerk of the county of his residence, together with proof of current service as a volunteer fireman, and without payment of a registration fee, the clerk shall issue a current year tag to the applicant to be affixed to the volunteer fireman license plate originally issued to the applicant.

(2) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the volunteer fireman license plate and return it to the county clerk who shall reissue it for use on any other vehicle of the same class and category owned by the same applicant to whom the volunteer fireman license plate was originally issued.

(3) Upon termination of membership as a volunteer fireman, an applicant to whom a volunteer fireman license plate was issued under this section, shall, within thirty (30) days, return the volunteer fireman plate to the county clerk of the county of his residence.

(4) For the services performed in issuing the volunteer fireman license plates, in annually issuing a current year tag to be affixed to the volunteer fireman license plate, the county clerk shall receive from each applicant a fee of one dollar ($1). A like fee shall be charged for the reissuance of such license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The commissioner of the department of transportation shall provide such forms as may be necessary to carry out the purpose of this section.

Section 2. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045 (5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, 186.210, 186.230, or 186.655 to 186.680 shall be fined not less than $10.00 nor more than $100 for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than $10.00 nor more than $2,000 or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than $2.00 nor more than $500 or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of $100 which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the department.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who makes a false affidavit to secure a license plate under Section 1 of this Act shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for a period of six (6) months.

The Committee on Judiciary-Statutes reported **HB 236, HB 346** with Committee Amendment attached thereto, **HB 380, HB 396** with Committee Amendment attached thereto, **HB 411** with Committee Amendment attached thereto, **HB 494, SB 90,** and **SB 172** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 236, AN ACT relating to divorce

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.040 is amended to read as follows:

The court rendering a judgment for divorce may, at any time, annul it on the joint application of the parties, and restore the parties to the condition of husband and wife. *The annulment voids the divorce decree and any separation agreement.*

Section 2. KRS 403.170 is amended to read as follows:

(1) If both of the parties by petition or otherwise have stated under oath or affirmation that the marriage is irretrievably broken, or one of the parties has so stated and the other has not denied it, the court, after hearing, shall make a finding whether the marriage is irretrievably broken. No decree shall be entered until the parties have lived apart for 60 days. *Living apart shall include living under the same roof without sexual cohabitation.* The court may order a conciliation conference as a part of the hearing.

(2) If one of the parties has denied under oath or affirmation that the marriage is irretrievably broken, the court shall consider all relevant factors, including the circumstances that gave rise to filing the petition and the prospect of reconciliation, and shall:

(a) Make a finding whether the marriage is irretrievably broken; or

(b) Continue the matter for further hearing not fewer than 30 nor more than 60 days later, or as soon thereafter as the matter may be reached on the court's calendar, and may suggest to the parties that they seek counseling. The court, at the request of either party shall, or on its own motion may, order a conciliation conference. At the adjourned hearing the court shall make a finding whether the marriage is irretrievably broken.

(3) A finding of irretrievable breakdown is a determination that there is no reasonable prospect of reconciliation.

HB 346, AN ACT relating to controlled substances and property subject to forfeiture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.270 is amended to read as follows:

(1) The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, possessed, being held or acquired in violation of this chapter;

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(c) All property which is used, or intended for use, as a container for property described in paragraphs (a) or (b);

(d) All conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (a) or (b), but:

1. No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

2. No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

3. A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission;

4. The forfeiture provisions of paragraph (d) above shall not apply to any offense relating to marihuana.

(e) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(f) All monies or items of value acquired from transactions involving property as described in paragraphs (a) and (b) of this subsection.

(2) Property subject to forfeiture under this chapter may be seized by any law enforcement agency upon process issued by any court having jurisdiction over the property. Seizure without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant;

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(c) The law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(d) The law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(3) Property taken or detained under this section shall not be subject to replevin, but is deemed to be in the custody of the law enforcement agency subject only to the orders and decrees of the court having jurisdiction over the forfeiture proceedings. When property is seized under this chapter, the law enforcement agency may:

(a) Remove the property to a place designated by it; or

(b) Take custody of the property and remove it to an appropriate location for disposition in accordance with law.

(4) When property is forfeited under this chapter the law enforcement agency may:

(a) Retain it for official use;

(b) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs. The balance shall be paid to the State Treasurer for deposit to the General Fund.

(5) Controlled substances listed in Schedule I that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, which are seized or come into the possession of the state, the owners of which are unknown, are contraband and shall be summarily forfeited to the state.

(6) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily destroyed or forfeited to the state.

(7) The failure, upon demand by the law enforcement agency or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to

produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

The Committee Amendment to **HB 346** is as follows:

Amend printed copy of **HB 346,** page 2, line 20, by striking the following words: "*or items of value*"

and on page 2, line 22, by inserting after the word "*subsection*" and before the period the following words: "*and found upon the person or premises of the defendant*"

HB 380, AN ACT relating to burglary.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 511.020 is amended to read as follows:
(1) A person is guilty of burglary in the first degree when, *with the intent to commit a crime, he knowingly enters or remains unlawfully:*
(a) In a dwelling;
(b) In a building, and when in effecting entry or while in the building or in the immediate flight therefrom, he or another participant in the crime:
1. Is armed with explosives or a deadly weapon; or
2. Causes physical injury to any person who is not a participant in the crime; or
3. Uses or threathens the use of a dangerous instrument against any person who is not a participant in the crime. [he knowingly enters or remains unlawfully in a dwelling with the intent to commit a crime and when:
(a) In effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the offense:
1. Is armed with explosives or a deadly weapon; or
2. Causes physical injury to any person who is not a participant in the crime; or
3. Uses or threatens the use of a dangerous instrument against some person who is not a participant in the crime; or
(b) The entering or remaining occurs at night.]]
(2) Burglary in the first degree is a Class B felony.

Section 2. KRS 511.030 is amended to read as follows:
(1) A person is guilty of burglary in the second degree when, *with the intent to commit a crime,* he knowingly enters or remains unlawfully in *an inhabited* [a] building [with intent to commit a crime and when in effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:
(a) Is armed with explosives or a deadly weapon; or
(b) Causes physical injury to any person who is not a participant in the crime; or
(c) Uses or threatens the use of a dangerous instrument against any person who is not a participant in the crime].
(2) Burglary in the second degree is a Class C felony.

Section 3. KRS 511.040 is amended to read as follows:
(1) A person is guilty of burglary in the third degree when, *with the intent to commit a crime,* he knowingly enters or remains unlawfully in *an uninhabited* [a] building [with intent to commit a crime].
(2) Burglary in the third degree is a Class D felony.

HB 396, AN ACT relating to recording of deeds, mortgages and other instruments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.110 is amended to read as follows:
(1) All deeds, mortgages and other instruments required by law to be recorded to be effectual against purchasers without notice, or creditors, shall be recorded in the county clerk's office of the county in which the property conveyed, or the greater part thereof, is located.
(2) No county clerk or deputy county clerk shall admit to record any deed of conveyance of any interest in real property equal to or greater than a life estate, unless the deed plainly specifies and refers to the next

immediate source from which the grantor derived title to the property or the interest conveyed therein.

(3) If the source of title is a deed or other recorded writing, the deed offered for record shall refer to the former deed or writing, and give the office, book and page where recorded, and the date thereof. If the property or interest therein is obtained by inheritance or in any other way than by recorded instrument of writing, the deed offered for record shall state clearly and accurately how and from whom the title thereto was obtained by the grantor.

(4) If the title to the property or interest conveyed is obtained from two or more sources, the deed offered for record shall plainly specify and refer to each of the sources in the manner provided in subsections (2) and (3), and shall show which part of the property, or interest therein, was obtained from each of the sources.

(5) *In counties containing cities of the first class, no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not include the district, block and lot number, if such numbers are appliable to the property.*

(6) No grantor shall lodge for record, and no county clerk or deputy shall receive and permit to be lodged for record, any deed that does not comply with the provisions of this section.

(7) [(6)] No clerk or deputy clerk shall be liable to the fine imposed by subsection (1) of KRS 382.990 because of any erroneous or false references in any such deed, nor because of the omission of a reference required by law where it does not appear on the face of such deed that the title to the property or interest conveyed was obtained from more than one source.

(8) [(7)] This section does not apply to deeds made by any court commissioner, sheriff or by any officer of court in pursuance of his duty as such officer, nor to any deed or instrument made and acknowledged before March 20, 1928. No deed shall be invalid because it is lodged contrary to the provisions of this section.

The Committee Amendment to **HB 396** is as follows:

Amend printed copy of **HB 396,** page 2, line 13, by inserting after the word "deed" and before the word "that" the following: "*or mortgage*"

on line 14, by inserting after the word "number" and before the word "if" the following: "*, and street address,*"

HB 411, AN ACT relating to unlawful imprisonment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 509.050 is amended to read as follows:

A person may not be convicted of unlawful imprisonment in the first degree, unlawful imprisonment in the second degree, or kidnapping when his criminal purpose is the commission of an offense defined outside this chapter and his interference with the victim's liberty occurs immediately with and incidental to the commission of that offense, *unless the commission of such offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, or* unless the interference exceeds that which is ordinarily incident to commission of the offense which is the objective of his criminal purpose. The exemption provided by this section is not applicable to a charge of kidnapping that arises from an interference with another's liberty that occurs incidental to the commission of a criminal escape.

The Committee Amendment to **HB 411** is as follows:

Amend printed copy of **HB 411,** page 1, line 10, by inserting before the word "*weapon*" the word "*deadly*"

and on line 10, by deleting the following words: "*from which a shot or projectile may*"

and by deleting line 11 in its entirety

and on line 12, by deleting the following words: "*or other serious physical injury*"

HB 494, AN ACT relating to trusts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 386.185 is amended to read as follows:

(1) Whenever a trustee holds and controls an amount, exclusive of income, of *ten thousand dollars ($10,000)* [two thousand dollars ($2,000)] or less, it may petition the district court having jurisdiction of the trust, for an order authorizing it to distribute the amount held, plus income available, less fees chargeable, to the appropriate beneficiary or beneficiaries, legal representatives thereof, or other appropriate persons or institutions responsible for the object of the trust, who shall be under a duty to use the funds for the purposes of the trust. Upon receipt of said petition by the district court, and accompanying affidavit and/or oral testimony, the court shall order the amount distributed.

(2) When an order to distribute the amount petitioned is granted and entered into the Court's records, no bond shall be required of the recipient of said distribution from the trustee.

(3) A release of the trustee shall be executed by the recipient upon distribution of the amount held, declaring said fiduciary not liable thereafter. The trustee shall not be required to look into the application of the amount so distributed.

SB 90, AN ACT relating to deputy sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.030 is amended to read as follows:

The sheriff may [, with the approval of the county court,] appoint his own deputies, and may revoke the appointment at his pleasure. Before any deputy executes the duties of his office he shall take the oath required to be taken by the sheriff.

SB 172, AN ACT to remove the words idiot, lunatic, imbecile, and feeble-minded in the Kentucky Revised Statutes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 43.050 is amended to read as follows:

(1) The auditor constitutes an agency independent of the administrative departments enumerated in KRS 12.020, it being the policy of the general assembly to provide for the independent auditing of the accounts and financial transactions of all spending agencies of the state through a disinterested auditor, who is entirely independent of the state administration whose affairs he is called upon to audit.

(2) The auditor shall:

(a) Audit annually, and at such other times as may be deemed expedient, the accounts of all state agencies, all private and semiprivate agencies receiving state aid or having responsibility for the handling of any state funds, the accounts, records and transactions of the budget units, and the general accounts of the state.

(b) Make a complete audit and verification of all moneys handled for the account of the state government by local officials charged with the collection of fees or other money for or on behalf of the state, when such an audit is demanded in writing by the legislative research commission, the commissioner of the Executive Department for Finance and Administration or the governor, and may make such an audit when it is not so demanded.

(c) Examine annually the management, conduct and condition of all asylums, prisons, *institutions for the mentally retarded* [feeble-minded] and eleemosynary institutions and public works owned, operated or partly owned by the state, or in the conduct or management of which the state has any financial interest or legal power, giving special attention to the faithful and economical application of any money appropriated by the state to the institution or public works examined, or of any money in which the state has an interest.

(d) Examine annually the management and condition of the offices of the Executive Department for Finance and Administration, the state treasurer and the superintendent of public instruction, to determine whether the laws regulating their duties are being fully complied with, and all money received by them for the state fully accounted for.

(e) Audit periodically all state revenue collections, and, if he finds that collections are not being satisfactorily made, report that fact to the authority whose duty it is to make such collections.

(f) Make special audits and investigations when required by the governor.

(g) Investigate the means of accounting for, controlling and insuring the safe custody of all property of the state, and verify the existence and condition of such property charged to, or held in the custody of any state agency.

(h) Audit the statements of financial condition and operations of the state government, examine the estimates of resources available for appropriation and the estimates of receipts prepared for inclusion in each biennial budget report, and certify in writing the results of such audit and examination with such comments as he deems necessary for the information of the general assembly, his certificate and comments to be included with the statements and estimates as presented in the budget reports.

(i) Report immediately in writing to the governor, each member of the legislative research commission, and the commissioner of the Executive Department for Finance and Administration, any unauthorized, illegal, irregular or unsafe handling or expenditure of state funds, or other improper practice of financial administration, or evidence that any such handling, expenditure or practice is contemplated, and any obstruction of the auditor or his agents during the conduct of any audit or investigation of a state agency.

(j) Assist the legislative research commission at hearings and investigations conducted by it and cooperate with the legislative research commission in the preparation of its reports to the general assembly.

(k) Keep accounts showing the costs of his own operations and of each separate audit and investigation made by him, and such accounts as he deems necessary to provide a record of warrants of the state outstanding as of the end of each calendar month.

(3) The auditor may investigate and examine into the conduct of all state and county officers who are authorized to receive, collect or disburse any money for the state, or who manage or control any property belonging to the state or in which the state is interested, or who make estimates or records that are used as a basis by any state agency in the disbursement of public funds.

(4) The auditor shall not be responsible for the keeping of any accounts of the state, except accounts relating to his own operations, and records of outstanding warrants. He shall not be responsible for the collection of any money due the state, or for the handling or custody of any state funds or property except in the process of counting and verifying the amounts of such funds or property in the course of the audits provided for in this section.

Section 2. KRS 43.080 is amended to read as follows:

(1) The auditor and his authorized agents shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money and property of any state agency. Every officer or employe of any such agency having such records or property in his possession or under his control shall permit access to and examination of them upon the request of the auditor or any agent authorized by him to make such request.

(2) The auditor and his assistants shall have access at all times to the papers, books and records of the asylums, prisons, *institutions for the mentally retarded* [feeble-minded] and eleemosynary institutions, and public works that he is authorized to examine, and of any county officer who receives or disburses county funds.

(3) The auditor may require information on oath from any person touching any matters relative to any account that the auditor is required to state, audit or settle. The auditor may administer the oath himself, or have it done by any officer authorized to administer an oath.

(4) The auditor and his assistants may issue process and compel the attendance of witnesses before them, and administer oaths and compel witnesses to testify in any of the investigations the auditor is authorized to make.

Section 3. KRS 43.990 is amended to read as follows:

(1) Any officer who prevents, attempts to prevent or obstructs an examination by the auditor, under the provisions of paragraph (c) of subsection (2) of KRS 43.050, or of subsection (3) of KRS 43.050, into his official conduct, or the conduct or condition of the office in his charge or with which he is connected, except when the office constitutes a state agency, is guilty of a high misdemeanor, and, upon conviction on indictment in the Franklin Circuit Court, shall be fined five hundred dollars ($500) and removed by the governor. Any person, other than an officer, who prevents, attempts to prevent or obstructs such an examination shall be fined one thousand dollars ($1,000).

(2) If the auditor fails or refuses without good cause to perform the duties imposed upon him by KRS 43.060, he shall be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000) for each offense.

(3) Any county officer who prevents, attempts to prevent or obstructs an examination by the auditor, under KRS 43.070, into his official conduct, or the conduct or condition of the office in his charge or with which he is connected, is guilty of a high misdemeanor, and shall, upon indictment and conviction in the Franklin Circuit Court, be fined five hundred dollars ($500). Any person, other than a county officer, who prevents, attempts to prevent or obstructs such an examination shall be fined one thousand dollars ($1,000).

(4) Any officer or other person who fails or refuses to permit the access and examination provided for in subsection (1) of KRS 43.080, or who interferes with such examination, shall be fined not less than one hundred dollars ($100), or imprisoned in the county jail for not less than one (1) month nor more than twelve (12) months, or both. Each refusal by an officer shall constitute a separate offense.

(5) Any person who has custody of any papers, books or records of an asylum, prison, *institution for the mentally retarded* [feeble-minded] or eleemosynary institution or public works, other than a state agency, that the auditor is authorized to examine under paragraph (c) of subsection (2) of KRS 43.050, under subsection (3) of KRS 43.050, and under subsection (2) of KRS 43.080, who fails or refuses, when called upon by the auditor for that purpose, to permit him to inspect any of such papers, books or records, shall, upon conviction on indictment in the Franklin Circuit Court, be fined not more than five hundred dollars ($500) and be subject to removal by the governor.

(6) Any person who refuses to be sworn when required by the auditor to be sworn for the purpose mentioned in subsection (3) of KRS 43.080 shall be fined not more than one hundred dollars ($100).

(7) Any witness called by the auditor under subsection (4) of KRS 43.080 who fails, without legal excuse, to attend or testify shall be fined not more than twenty-five dollars ($25.00).

Section 4. KRS 62.030 is amended to read as follows:

Every person, before entering on the duty of executor, administrator, guardian, curator or committee of a *person who is mentally retarded or mentally ill* [an idiot or lunatic], or any other like trust or employment, in lieu of all other oaths not expressly required by law, shall take in substance the following oath or affirmation "I do solemnly swear (or affirm) that I will faithfully perform the duties of .... according to law."

Section 5. KRS 62.090 is amended to read as follows:

If a surety in any official bond, or bond of a personal representative, guardian, curator, assignee or trustee, committee of a *mentally ill person* [lunatic], master commissioner, receiver, or in any bond or covenant which by law may be required to be executed in court, or before an officer at the commencement or during the progress of any civil judicial proceeding, wishes to be relieved from future liability and to obtain indemnity for liability already incurred, or either, he may file a motion in the court in which the original bond was given or in whose clerk's office the bond is required to be kept. If the bond was not given in any court or is not required to be kept in any office, the motion shall be filed in the circuit court of the county in which the principal resides, or if the principal has no residence in this state, then in the circuit court of the county of the residence of the surety. The motion may be filed in the court or the motion and notice, with return showing service, may be filed in the office of the clerk of the court.

Section 6. KRS 73.230 is amended to read as follows:

Any person desiring to have his land processioned, or desiring to take depositions as allowed by KRS 73.220, may give ten (10) days' notice to any person interested, or his agent or attorney, or, if an infant, *mentally ill or mentally retarded person* [lunatic or idiot], to his guardian or committee, of the time and place when and where the processioners will convene. If the party interested does not reside in the state, and has no known agent therein, notice shall be published pursuant to KRS chapter 424 and shall also be posted for the same period that publication is required on the courthouse door. The printer of the paper in which the notice is published shall make affidavit of the fact of publication, which, with the notice, shall be filed with the processioners before they act, and returned with their proceedings. An affidavit of a disinterested person of the service of a notice on persons interested, or their agents, or the fact of such agency, shall, in like manner, be made and filed with the processioners, and returned with their report.

Section 7. KRS 91.450 is amended to read as follows:

Within a reasonable time after the tax bills for the year have been listed with the tax receiver, he shall mail a postpaid tax notice, directed to the best of his knowledge, to every person against whom a tax bill has been listed. In the case of an infant or *mentally ill person* [lunatic] the notice shall be mailed to his guardian or committee, and in the case of an absent owner whose address is unknown to the tax receiver it shall be mailed to the agent of the owner. The tax notice shall give a brief description of the property taxed, and shall state the number and amount of the bill listed against the taxpayer, the date of its maturity, and the penalties imposed for nonpayment. The failure of the tax receiver to send the tax notice, or of the taxpayer to receive it, shall not invalidate the tax, or the interest or penalties provided for by KRS 91.430, or any subsequent proceeding for the collection of either.

Section 8. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

(1) Any person under the age of sixteen (16).

(2) Any person whose operator's license has been suspended, during the period of suspension.

(3) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued.

(4) An habitual drunkard or drug addict.

(5) Any applicant who has previously been adjudged insane or *mentally retarded* [an idiot, imbecile or feeble-minded], and who has not at the time of application been restored to competency by judicial decree or release from a hospital for the insane or *mentally retarded* [feeble-minded] with a certificate of the superintendent that the applicant is competent. The state police shall determine by examination that the person is competent to operate a motor vehicle with safety to persons and property.

(6) Any person who in the opinion of the state police, after examination, is afflicted with such physical or mental disability as prevents him from exercising reasonable and ordinary control over a motor vehicle upon the highways.

(7) Any person who is unable to understand highway warnings or direction signs in the English language.

(8) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination.

(9) Any person required by KRS chapter 187 to deposit proof of financial responsibility, who has not deposited that proof.

(10) Any person who has not filed a correct and complete application signed in the presence of a person authorized to administer oaths.

(11) Any person whose operator's license has been suspended or revoked under the provisions of KRS chapter 186 or 187 until the person has forwarded to the department a reinstatement fee of five dollars ($5.00). The fee shall be paid by certified check or money order payable to the state treasurer to be credited to a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers.

Section 9. KRS 204.070 is amended to read as follows:

No county poor farm, poorhouse, or any home or institution providing primarily for poor or infirm persons, shall receive or permit to remain in its shelter a *mentally retarded* [feeble-minded] person under forty-five (45) years of age if there is room in the institution for the *mentally retarded* [feeble-minded] in which case said person must be transferred to the *institution for the mentally retarded* [feeble-minded institute]
.

Section 10. KRS 362.305 is amended to read as follows:

(1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been *adjudged incompetent by a court of competent jurisdiction* [declared a lunatic] in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render a dissolution equitable.

(2) On the application of the purchaser of a partner's interest under KRS 362.280 or 362.285:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued.

Section 11. KRS 388.350 is amended to read as follows:

(1) Whenever in a proceeding for the trial and commitment of any person who appears to be of unsound mind it is determined that such person is either *mentally retarded* [feeble-minded], an epileptic, *or* insane person [or an idiot] and ought to be committed for safekeeping or treatment and it appears that such person is eligible for care or treatment by the Veterans Administration or other agency of the United States Government, the court of the county in which such person is found, having jurisdiction in such matters, upon receipt of a certificate from the Veterans Administration or such other agency showing that facilities are available and that such person is eligible for care or treatment therein, may commit such person to the Veterans Administration or other agency of the United States Government for care or treatment. Thereafter, such person, upon admission to any such facility, shall be subject to the rules and regulations of the Veterans

Administration or other agency of the United States Government. The chief officer of any such facility or institution to which such person is committed under the provisions of this section shall be vested with the same powers as are exercised by superintendents of state hospitals for mental diseases within this state with respect to the retention, transfer, parole or discharge of the person so committed. Notice of such pending commitment proceedings shall be furnished the person whose commitment is sought and his right to appear and defend shall not be denied. The judgment or order of commitment by a court of competent jurisdiction of another state committing a person to the Veterans Administration or other agency of the United States Government, for care or treatment, shall have the same force and effect as to such person while in this state as in the state in which is situated the court entering such judgment or making such order.

(2) Upon receipt of a certificate of the Veterans Administration or such other agency of the United States Government that facilities are available for the care or treatment of any person heretofore committed to any hospital for the insane or other institution in this state for the care of persons similarly afflicted and that such person is eligible for such care or treatment, the superintendent of any such hospital or institution in this state is hereby authorized to cause the transfer of any such person to the Veterans Administration or other agency of the United States Government for care or treatment. Upon effecting any such transfer, the committing court shall be notified thereof by the transferring agency; provided, however, that no person shall be transferred if he be confined pursuant to conviction of any crime or misdemeanor, or if he shall have been acquitted of any such charge solely on the ground of insanity, unless prior to such transfer the court originally committing such person shall enter an order for such transfer after appropriate motion and hearing.

(3) Any person transferred as provided in this section shall be deemed to be committed to the Veterans Administration or other agency of the United States Government pursuant to the original commitment the same as if he had been originally so committed.

Section 12. KRS 402.020 is amended to read as follows:

Marriage is prohibited and void:

(1) With *a person who has been adjudged incompetent by a court of competent jurisdiction* [an idiot or lunatic];

(2) Where there is a husband or wife living, from whom the person marrying has not been divorced;

(3) When not solemnized or contracted in the presence of an authorized person or society;

(4) When at the time of marriage, the person is under eighteen (18) years of age, if the marriage is without the consent of the father, mother, guardian, or other person lawfully having charge of his or her person, provided, however, that in case of pregnancy the male and female, or either of them, under the ages herein specified may apply to a district court judge for permission to marry, which application may be granted, in the discretion of the judge. There shall be a fee of five dollars ($5.00) for hearing each such application.

Section 13. KRS 402.990 is amended to read as follows:

(1) Any party to a marriage prohibited by KRS 402.010 shall be fined not less than $500 nor more than $5,000. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be imprisoned in the penitentiary for not less than three nor more than twelve months.

(2) Any person who aids or abets the marriage of any *person who has been adjudged incompetent* [feeble-minded person], or attempts to marry, or aids or abets any attempted marriage with *any such person* [, an idiot or lunatic] shall be fined not less than $50 nor more than $500.

(3) Any authorized person, with or without a license, who knowingly solemnizes a marriage prohibited by this chapter shall be fined not more than $1,000 or imprisoned not less than one month nor more than twelve months, or both.

(4) Any minister or priest who breaches the covenant required by KRS 402.060 shall be fined not more than $2,000.

(5) Any person who attempts to solemnize a marriage without a marriage license or without being authorized by the county court to solemnize marriages shall be fined not more than $1,000 or imprisoned for not less than one month nor more than twelve months, or both.

(6) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely personates the father, mother or guardian of an applicant in obtaining a license shall be imprisoned in the penitentiary for not more than three years.

(7) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be imprisoned in the penitentiary for not less than one nor more than five years. Indictment under this subsection shall be found only upon complaint of the injured party and within two years after the commission of the offense.

(8) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be fined not less than $500 nor more than $1,000, and removed from office by the judgment of the court in which he is convicted.

(9) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be fined not more than $1,000.

(10) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be fined not more than $1,000, and if he knowingly issues a license for a marriage prohibited by this chapter he shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(11) Any person who violates any of the provisions of KRS 402.090 shall be fined not less than $10 nor more than $100 for each offense.

(12) Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be fined not less than $20 nor more than $50.

(13) Any person who violates any of the provisions of KRS 402.120 to 402.200 by disclosing any matter of confidential nature shall be fined $1,000, which shall be paid to the applicant for a marriage license in lieu of damages. Upon failure to pay the fine, the defendant shall be imprisoned as for failure to pay any other fine.

(14) Any physician, laboratory representative, county clerk or applicant for a marriage license who violates any of the provisions of KRS 402.120 to 402.200, or makes any false representation of fact or identity, shall be fined not less than $10 nor more than $100, and imprisoned in the county jail for a term fixed by the jury.

(15) Any person failing to make the return required of him by KRS 402.220 shall be fined $50.

Section 14. KRS 404.050 is amended to read as follows:

When a husband has been adjudged *mentally incompetent* [a lunatic] by a court of competent jurisdiction, the wife, by judgment of a court of equity, may be empowered to sell and convey by her own deed, or to mortgage by appropriate instrument, any of her real estate freed as to it and its proceeds from any claim of her husband.

The Committee on Labor and Industry reported **HB 273** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 273, AN ACT relating to deductions from wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.070 is amended to read as follows:

All employers [who employ ten (10) or more and pay their employes by check or otherwise,] making deductions from the salaries and wages due [said] employes, shall state specifically the amount for which the deductions are made, and each such employer at the time of payment of salary or wage to each employe shall furnish the employe a statement giving the amount of each deduction and the [general] purpose for which the deduction is made.

The Committee on Education reported **HB 283,** with Committee Amendment attached thereto, and **SB 181** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 283, AN ACT relating to personal leave days for school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.154 is amended to read as follows:

(1) For the purpose of this section, "school employes" shall mean any person for whom certification is required as a basis of employment in the public schools.

(2) Each district board of education *shall* [may] provide up to three personal leave days per school year to school employes, without loss of salary to the employe and without affecting any other type of leave granted by law, regulation or school board policy. Local boards of education may establish policy regarding the number of teachers who may take personal leave on any one (1) day.

(3) Personal leave granted under this section shall not be treated as having effect on the provisions of KRS 161.152 to KRS 161.155 and shall be supported by personal affidavit of the school employe stating that the leave taken is personal in nature; no other reason for or verification of the leave shall be required.

(4) Payments to school employes made by a district board of education under the provisions of this section are presumed to be for services rendered and for the benefit of the common schools and such

payments do not affect the eligibility of any school district to share in the distribution of funds from the public school foundation program fund as established in KRS Chapter 157.

The Committee Amendment to **HB 283** is as follows:

Amend printed copy of **HB 283,** on line 7 after provide: one personal leave day and may provide 2 additional personal leave days per year.

SB 181, AN ACT relating to suspension or expulsion of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.370 is amended to read as follows:
Each board of regents may invest the faculty or a committee of the faculty *and students* with the power to suspend or expel any student for disobedience to its rules, or for any other contumacy, insubordination or immoral conduct. In every case of suspension or expulsion of a student the person suspended or expelled may appeal to the board of regents. The board of regents shall prescribe the manner and the mode of procedure on appeal. The decision of the board of regents shall be final.

The Committee on State Government reported **HB 272, HB 374** with Committee Substitute attached thereto, **HB 446, HB 447, HB 448, HB 450, HB 480** with Committee Amendment attached thereto, **HR 9, HR 44, HR 53,** and **SB 79** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 272, AN ACT relating to salaries of state officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.340 is amended to read as follows:
(1) (Except where otherwise provided by law, checks for salaries due to public officers and employes shall be issued weekly, semimonthly, monthly or for such other period of time not exceeding thirty (30) days which may be designated by the executive department for finance and administration with the approval of the governor. Checks shall be tendered to an officer or employe only after he has completed the work for which he is being paid and not later than fifteen (15) days after the designated pay period. The executive department for finance and administration is authorized to effect such changes in the payroll system at any time as are necessary to pay salaries after work has been performed. The department is further authorized to make such changes as are necessary and desirable in the posting of payroll expenditures and any other accounting and reporting procedures. In connection with such changes in accounting and reporting procedures, KRS 45.231 shall not be construed to prevent the issuance of salary checks for services rendered during a preceding fiscal year.

(2) All salaried state officers and employes shall be paid bi-weekly, every other Friday, beginning on August 25, 1978, for the pay period August 1 through August 15, 1978, for the employes of the executive department for finance and administration, and beginning no later than October 26, 1979, for the pay period October 1 through October 15, for the employes of all other state program cabinets, departments, divisions or administrative bodies as defined and enumerated in KRS Chapter 12.

(3) The manner of paying employes of the courts, the general assembly, all institutions of public higher education, hourly employes of the department of parks, and other hourly employes of any state governmental unit or organization exempted pursuant to subsection (4) of this section, shall not be affected by subsections (2), (3) or (4) of this section.

(4) The secretary of the executive department for finance and administration shall implement this Act and pursuant thereto may: exempt the hourly employes of any budget unit from the requirements of subsection (2) this section; renegotiate or amend any state budget unit contract to provide for payment of any voluntary or legally prescribed payroll deductions thereunder in accordance with the bi-weekly payroll check issuance plan established in this section; requisition, and require any budget unit to furnish him services, personnel, labor, materials, quarters or equipment subject to KRS 12.090; and, take any other action authorized by law or regulation promulgated pursuant thereto not inconsistent with this section.

Section 2. To carry out the purposes of this Act, there is appropriated to the state treasurer out of the general fund in the state treasury the sum of ten thousand dollars ($10,000) for the 1978-79 fiscal year, and the sum of ten thousand ($10,000) for the 1979-80 fiscal year, and there is appropriated to the executive department for finance and administration out of the general fund in the state treasury the sum of five thousand dollars ($5,000) for the 1978-79 fiscal year.

Section 3. The effective date of this Act shall be July 1, 1978.

HB 374, AN ACT relating to fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:
Notwithstanding the provisions of KRS 12.025, the department of fish and wildlife resources is not subject to inclusion within an agency formed by executive action of the governor.

The Committee Substitute to **HB 374** is as follows:

HB 374, AN ACT relating to fish and wildlife resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:
Pursuant to the provisions of KRS 12.025, the department of fish and wildlife resources is subject to inclusion within a major program cabinet by executive action of the governor, but the department shall not be merged with or subjugated to any sub-cabinet agency of state government by executive action of the governor.

HB 446, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.170, constitution revision assembly, is repealed.

HB 447, AN ACT relating to the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:
A member of the general assembly who desires to resign his office shall submit a letter of resignation to the officer required to issue a writ of special election to fill such vacancy, pursuant to KRS 118.730. Upon receiving such letter of resignation such officer immediately shall notify the director of the legislative research commission of the fact of such resignation and its effective date.

HB 448, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.105 is amended to read as follows:
[(1) As used in this section, "legislative record" means the daily legislative record published during sessions of the general assembly and the interim legislative record published between sessions of the general assembly.
(2)] The legislative research commission shall provide and mail immediately upon publication one (1) copy of *the "final executive action"* [each] issue of the legislative record, *and one (1) copy of each interim legislative record,* free of charge, to the main library of each county library system in the Commonwealth and to each state college or university library designated as a Kentucky cooperative library information center by the department of library and archives. In any county that does not maintain a county library system, the commission shall provide and mail each *such* issue of the legislative record *or the interim legislative record* free of charge to the library of the public high school in that county with the largest enrollment.

HB 450, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.130 is amended to read as follows:

In the formulation of the plans and methods provided for in KRS 7.120, the legislative research commission shall act with the consent and approval of an advisory committee on statute revision, consisting of four (4) members, to be appointed by the *legislative research commission* [governor] from a list of eight (8) persons, learned in the law, submitted by the board of commissioners of the Kentucky State Bar Association. The members of this committee shall serve for four (4) years and until their successors are appointed and have qualified. Vacancies in the committee shall be filled by appointment by the *legislative research commission* [governor] from a list of two (2) names for each vacancy submitted by the board of commissioners of the Kentucky State Bar Association. Not more than three (3) members of the committee shall be members of the same political party. The members of the committee shall receive no compensation for their services, but shall receive their reasonable and necessary expenses in connection with the performance of their duties, to be paid out of sums appropriated to the legislative research commission.

HB 480, AN ACT relating to written opinions of the attorney general.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The written opinion of the attorney general of the Commonwealth of Kentucky secured by any officer, board, local governing body or agency legally entitled to secure such opinion, pursuant to KRS 15.020, shall protect such officer, and the members of such board, local governing body or agency to whom it is directed or for whom the opinion is secured, from liability to either the state of Kentucky, county or other political subdivisions of the state, because of any official act or acts performed as directed or advised in such opinion.

The Committee Amendment to **HB 480** is as follows:

Amend printed copy of **HB 480,** page 1, line 12, by deleting the words "directed or".

HR 9, A RESOLUTION amending Rule 49 of the Rules of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rule 49 of the Rules of the House of Representatives be amended to read as follows:

Rule 49. Form of Bills. All bills introduced shall be typewritten on the Automated Legal Text Entry and Revision System of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as one original and three distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Clerk for the use of the House until engrossed and sent to the Senate. One copy shall be used by committees; one copy shall be for the use of the press and shall be given to a person designated by the press club; and one copy shall be given to the Legislative Research Commission. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, which seek to amend existing sections of the Kentucky Revised Statutes, any new matter contained therein shall be underscored; and when an amendment proposes the omission or elimination of matter in an existing law, such omission or elimination shall be indicated on the typewritten bill and on the printed bill by placing the material proposed to be eliminated in brackets. *Any section of a bill seeking to repeal a section or sections of the Kentucky Revised Statutes shall set forth in addition to the statute section number the statute section headnote as such appears in the Kentucky Revised Statutes.* The Clerk shall refer to the Legislative Research Commission any bills offered for introduction not conforming with the Automated Legal Text Entry and Revision System method of preparation, or with this format for revision as to form. The Enrolling Clerk in enrolling a bill which contains deleted material appearing in brackets shall strike over such deleted matter.

Section 2. This amendment of Rule 49 shall be effective for those bill drafting requests received by the Legislative Research Commission from members of the House of Representatives after January 9, 1978.

HR 44, A RESOLUTION honoring Vernon R. Rose and the "Over-the-Hill Gang" of Radcliffe, Kentucky.

WHEREAS, Vernon R. Rose and the Veterans' Affairs Office of Radcliffe, Kentucky have devoted countless hours to aiding, assisting, counseling and otherwise serving former American servicemen; and

WHEREAS, the voluntary actions of this devoted group, which is known as the "Over-the-Hill Gang," have enabled thousands of veterans to receive and enjoy benefits earned through service to their countrymen; and

WHEREAS, the efforts of these dedicated men save the government thousands of dollars each year; and

WHEREAS, such unselfish acts have won the "Over-the-Hill Gang" the honor, respect, admiration and appreciation of their community and the nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives pays honor and bestows its appreciation to Vernon R. Rose and the "Over-the-Hill Gang" for their unselfish acts of patriotism and service to their fellow man.

Section 2. That the Clerk be directed to transmit a copy of this resolution to Vernon R. Rose and the "Over-the-Hill Gang."

HR 53, A RESOLUTION recognizing Capital EXPO and encouraging statewide support.

WHEREAS, Capital EXPO is Kentucky's only statewide folklife festival held in Frankfort the first weekend of June which showcases the talents of Kentuckians of all economic levels; and

WHEREAS, Capital EXPO has drawn national attention to the contributions Kentucky has made to the national heritage; and

WHEREAS, Capital EXPO establishes confidence in the future by strengthening old friendships and bringing new friends of different outlook, needs, and interest together; and

WHEREAS, Capital EXPO encourages participants from throughout the Bluegrass State, focusing on cultural achievements in such fields of endeavor as crafts, art, music, dance, exhibits agriculture, ethnic and regional cuisine, industry, ecology, education and preservation, while stressing the folklife of all Kentuckians;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this House urges every Kentuckian to support the goals of this festival which encompasses all geographic regions of the Commonwealth and invites them to come to Frankfort June 3 and 4, 1978, to enjoy the legacy of the people.

SB 79, AN ACT relating to the Tennessee Valley Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The Tennessee Valley Authority, hereinafter called "TVA," may apply to the governor for the appointment and commissioning of peace officers and TVA policemen. Such persons shall be selected from a list submitted by TVA to the governor. The governor, upon such application being made and upon the payment to him of a fee of five dollars for each officer to be appointed, shall appoint such persons or as many thereof as he deems proper to be such peace officers and policemen and shall give commissions to those appointed.

(2) Such commissions shall be recorded in the office of the county court clerk of the several counties in which such officer performs any duties as a TVA peace officer. No person shall be eligible for appointment and commission as a TVA peace officer unless he has established to the satisfaction of the governor that, except for residency requirements, he possesses the qualifications prescribed for nonelective peace officers by KRS 61.300.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
Each TVA officer appointed and commissioned pursuant to this Act throughout every county in the Commonwealth in which TVA operates or owns or controls property, including leasehold interests, shall have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon, about, or against such property or on public roads and the rights of way passing through or over such property; and while in pursuit of a person fleeing from the property after committing an act of violence or destruction of the property, may pursue the person and make arrest anywhere in the Commonwealth; may serve process in criminal and penal prosecutions for such offenses; and shall be subject to all the liabilities of sheriffs or constables. Such power to arrest persons committing public offenses committed upon or about such property, roads, or rights of way shall exist whether such persons are found on or off such property, roads, or rights of way. Such TVA officers shall also have authority to carry weapons for the reasonable purposes of their offices and in performance of their assigned duties.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
When TVA no longer needs the services of a person appointed and commissioned as a TVA peace officer pursuant to this section, notice to that effect, signed by the general manager of TVA or by the person having responsibility for general supervision of the work of such officer, may be filed in the several offices in which the commission of such officer is recorded. The county clerk shall note the fact upon the margin of the record where the commission is recorded, and thereupon the power of the person to act as a TVA peace officer shall cease as to any particular county in which such notice is filed and recorded.

SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
Each TVA peace officer appointed pursuant to this Act shall, before he enters upon the discharge of the duties of his office, execute bond in the sum of fifty thousand dollars ($50,000), with good security, conditioned upon the faithful performance of his duty as such officer, and take and subscribe an oath of office and the oath required by section 228 of the Constitution of Kentucky. The bond shall be executed before the county judge/executives of the several counties in which he performs any duties as a TVA peace officer, and the bond shall be approved, and the oath administered, by the county judge/executive. The bond and oath shall be entered of record by the county clerks of the several counties in which executed, and the execution of the bond and the taking of the oath shall be endorsed upon the commission of the person so qualifying. In lieu of such individual bonds, a duly executed bond covering all TVA peace officers appointed and commissioned pursuant to this section, as principals, with TVA as surety, in the amount of fifty thousand dollars ($50,000) for each such officer and conditioned for the faithful performance of their duties may be filed by TVA with the secretary of state of the Commonwealth in which event individual bonds shall not be required. Certified copies of such bonds shall be recorded with the county clerks of the several counties where such officers record their commissions and take their oaths.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
The keepers of jails in any county or municipality wherein the violation occurs for which any such arrest is made by a TVA peace officer shall receive all persons arrested by such officers to be dealt with according to law, and persons so arrested shall be received by keepers of jails on the same basis and shall have the same status as prisoners arrested by any other police officer.

SECTION 6. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
The compensation of the TVA peace officers appointed and commissioned pursuant to this Act shall be fixed and paid by TVA.

SECTION 7. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:
Each TVA peace officer appointed and commissioned pursuant to this Act shall, while on duty, wear a badge or shield identifying him as an employe either of the TVA public safety service or of the TVA land between the lakes protection section. When acting as a detective in the service of TVA as an employe in the performance of his assigned duties, he may wear his badge, shield, or weapon concealed. Each TVA peace officer may, while on duty, wear such other insignia and identification, including uniform, as will plainly indicate to the public that he is a TVA peace officer.

The Committee Amendment to **SB 79** is as follows:

Amend printed copy of **SB 79,** page 1, line 9, by adding the word "one-time" before the word "fee";

and on page 1, line 10, by adding, after "appoint" and before "such" the phrase: ", for annually renewable terms of one (1) year,";

and on page 1, line 12, by adding the following after "appointment.": "Appointments and annual renewals of appointments under this subsection shall be subject to approval by the sheriff of each county in which the peace officer will normally operate, not including counties into which he may pursue and arrest persons under Section 2 of this Act.";

and on page 1, line 19, by adding the word "county" after "for" and before "residency";

and on page 1, line 21, by adding, after "61.300" and before the period, the following: "and, in addition, that he has been a resident of Kentucky for at least two (2) years at the time of his appointment".

The Committee on Health and Welfare reported **HB 128**, **HB 233**, and **HB 407** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 128, AN ACT relating to community work experience programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.650 is amended to read as follows:

(1) The secretary *shall* [may] develop community work experience programs for recipients in designated geographic areas in the commonwealth through contracts with any public entity or nonprofit agency or organization and through applicable federal programs including, but not limited to the demonstration projects authorized by Title XI, Section 1115 of the Federal Social Security Act.

(2) *The community work experience programs enabled by subsection (1) of this section shall give priority to unassigned WIN registrants but the development of community work experience programs shall not necessarily be limited to WIN counties.*

(3) The community work experience programs enabled by subsection (1) of this section shall provide for the development of the employability of recipients through actual work experience and training. The programs shall be designed to *help* [enable] recipients employed under community work experience programs to move [promptly] into regular public or private employment or into training or public service employment programs.

(4) [(3)] Community work experience programs shall be confined to projects which serve a useful public purpose such as in the fields of health, social science, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, and public safety. To the extent possible, the prior training, experience and skills of a recipient shall be utilized in making appropriate work experience assignments.

(5) [(4)] The secretary shall adopt, amend, or rescind such rules and regulations as deemed necessary or suitable for the proper administration of KRS 205.650 to KRS 205.700.

Section 2. KRS 205.660 is amended to read as follows:

(1) The secretary shall designate the procedures for inclusion of recipients within community work experience programs, including the designated geographic area within which such programs shall be established.

(2) To the extent permitted by federal law, recipients referred by the department to a community work experience program shall, as a condition of receiving public assistance, participate in such program, except where good cause exists for failure to accept and continue to participate.

(3) To the extent permitted by federal law, benefits shall be terminated to a recipient, who without good cause refuses to participate in a community work experience program; Provided, however, that benefits for the support of the child or children of such recipient shall not be reduced or terminated as a result of such refusal to participate. Any recipient who refuses without good cause to participate shall not be considered a needy relative or caretaker of a recipient child and until the former participant demonstrates willingness to participate shall not be entitled to receive or use any part of public assistance benefits except services designed to help motivate the former recipient to participate in the community work experience program.

(4) No recipient who is under seventeen (17) years of age, or who is the mother of a child six (6) years of age or under in the home, or who is otherwise employed or actively participating in training programs, education programs, or public service employment programs, or is incapacitated, shall be required to participate in community work experience programs. No mother of a child over six (6) *and under thirteen (13)* years of age in the home shall be required to participate in such community work experience programs unless suitable child care is available.

Section 3. KRS 205.670 is amended to read as follows:

(1) A community work experience program as established under KRS 205.650 to 205.700 shall provide:

(a) Appropriate standards for health, safety, and other conditions applicable to the performance of work [, including workmen's compensation insurance];

(b) That the program does not result in displacement of persons currently employed [, or the filling of established unfilled position vacancies];

(c) That the program does not apply to jobs covered by a collective bargaining agreement;

(d) Reasonable conditions of work including taking into account the geographic region, the residence of the recipient, and the proficiency of the recipient; and

(e) That recipients will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight.

(2) Participants in community work experience programs shall not be required to:

(a) Work in excess of *ninety-six (96)* [eighty (80)] hours in any calendar month, or

(b) Work in excess of twenty-four (24) hours in any calendar week, or

(c) Work in excess of eight (8) hours during any calendar day in order to provide time to seek regular employment; Provided, however, that in no case shall any recipient be required to participate in a community work experience program for a period of time which would result in a total number of hours per month, which, if compared to the amount of the public assistance grant, in relation to the state or federal minimum wage, whichever is higher, would result in a ratio that would be less than such minimum wage. Nothing in this section shall be construed as requiring or permitting the payment of a public assistance grant in exchange, or as compensation, for work performed.

(3) Participation in a community work experience program shall not result in any cost to a recipient. The department shall make provisions for transportation and all other costs reasonably necessary to and directly related to a recipient's participation in the program.

HB 233, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.222 and 205.223 are hereby repealed.

HB 407, AN ACT relating to dentists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.080 is amended to read as follows:

(1) By December 31 of each year, every dentist licensed to practice in this state shall return to the secretary-treasurer of the board [his renewal notice properly signed, a fee of $25.00 and] evidence satisfactory to the board that such dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. [The dentist shall thereupon receive a license renewal certificate,] Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for such hardship or other extenuating circumstances as the board deems appropriate. [When the amount of the balance of cash in the hands of the secretary-treasurer reaches the sum of $25,000, the board may fix the annual renewal license fee at such amount, not less than $5.00 nor more than $25.00, as is necessary to maintain a revolving fund at an approximate level of $25,000.]

(2) *By March 1 of each year every dentist licensed to practice in this state shall return to the secretary-treasurer of the board his renewal notice properly signed and a fee not to exceed fifty dollars ($50). The dentist shall thereupon receive a license renewal certificate, provided that he has also complied with the requirements of subsection (1) of this section. The board shall fix the license fee at such amount as is necessary to maintain a revolving fund at an approximate level of fifty thousand dollars ($50,000).* The license fee for each year shall be set annually by the board. Notice of such change in the amount of license renewal fee shall be given to each dentist registered in the state by the secretary-treasurer not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by March 1 of each year, but any license thus suspended may be restored by the board upon the payment to the secretary-treasurer of a reinstatement fee of $50.00 within one (1) year after the suspension.

The Committee on Education reported **SB 60** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 60, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

(1) The state board of *elementary and secondary* education shall have the management and control of the common schools, *including interscholastic athletics* [public vocational education for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed, vocational rehabilitation], and the Kentucky school for the blind.

(2) *The board may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and by-laws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.*

(3)(a) It is hereby authorized to lease from the state property and buildings commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any such lease may be for any initial term commencing with the date of such lease and ending with the next ensuing June 30 which is the close of the then current fiscal biennium of the Commonwealth with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the state property and buildings commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which said state property and buildings commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring such television and related facilities, with appurtenances and such costs as may be incident to the issuance of such bonds.

(b) Each such option of the state board of education to renew the lease for succeeding biennial term may be exercised at any time after the adjournment of the session of the general assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the state property and buildings commission in writing, signed by the superintendent of public instruction, and delivered to the commissioner of the executive department for finance and administration as a member of said commission; Provided, however, That such option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the commissioner of the executive department for finance and administration before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The board shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the superintendent of public instruction and the department of education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any such contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any such contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the state property and buildings commission shall bind the board to pay rentals for more than one fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) [(3)] The state board of education may, on the recommendation and with the advice of the superintendent of public instruction, prescribe, print, publish and distribute at public expense such rules, regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as it deems necessary for the efficient management, control and operation of the schools under its jurisdiction. All rules and regulations published or distributed by the board shall be inclosed in a booklet or binder on which the

words "informational copy" shall be clearly stamped or printed.

Calendar

HB 266, HB 337, HB 445, HB 471, HB 481, HB 152, HB 398, HB 399, SB 64, HB 194, HB 262, HB 517, HB 547, SB 74, HB 268, HB 548 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Dunn moved that **HB 319** and **HB 585** be taken from the Committee on Elections and Constitutional Amendments and sent to the Committee on State Government. Agreed.

Representative Robinson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Robinson moved that he be recorded as voting "nay" on **HB 247.** Agreed.

Representative Deskins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Deskins moved that the be recorded as voting "nay" on **HB 234.** Agreed.

Representative Weinberg moved the adoption of the following Legislative Citation No. 34:

The House of Representatives hereby commends Veteran Tounsel Howard, Leburn, Kentucky, Air Force Sergeant, for his perilous and extraordinary service in the defense of his country. As a participant in a series of Atom bomb tests in 1957, his life was in great jeopardy and today he is a cancer victim probably as a result of radiation exposure. Self-denial, self-sacrifice, and love for his country are admirably and courageously demonstrated in his fulfillment of a top secret mission entrusted to him 20 years ago. Recently, his classified status was removed in order that he might testify in Washington at Hearings on Health and Environment. We applaud him for his implicit faith, supreme sacrifice, and for honoring his oath many years for the protection of his country. (Sponsored by Representative Weinberg)

Agreed.

Representative Williams moved that the adoption of the following Legislative Citation No. 38:

The House of Representatives hereby pays tribute to a great American and a great Kentuckian. Muhammed Ali has been Kentucky's greatest public relations vehicle, rivaled only by the famed Kentucky Derby. Wherever he went, Manila, the Phillipines, Zaire, Egypt, Chicago or New York, he made it perfectly clear that he was not only a native Kentuckian but was proud of it. Ali is a cleancut, non-smoking, non-drinking athlete and man with deep-seated religious beliefs. He is a man who has the courage of his convictions and the fortitude to stand up for what he believes in at all costs. Muhammed Ali has shown the world that Kentuckians are a strong and proud breed of people both in victory and in defeat. The end of an era has finally come. Muhammed Ali has gone down in defeat at the hands of a younger Leon Spinks. There was a kind of sadness in his defeat because he represented so many things to so many people. Neither Kentucky nor the world will ever see one like him again. Truly as heavyweight boxers go, he is indeed, the Greatest. (Sponsored by Representatives Williams and Benson)

Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Imes, **HB 162;** Representative Pearman, **HB 613;** Representative Wilborn, **HB 283.**

Report on Enrolled Bills

The Committee on Enrollment reported **SB 67, SB 18, SB 15, SB 14, SB 12, SB 11, SB 9, SB 8** had been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 69 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Motions, Petitions and Communications

Representative B. Richardson moved that the rules be suspended to allow bills to be placed on the Consent Calendar. Agreed.

Representative B. Richardson moved that **SB 19, SB 20, SB 21, SB 25, SB 26, SB 31, SB 33, SB 38, SB 41, SB 42, SB 58,** and **SB 27** be placed on the Consent Calendar. Agreed.

Orders of the Day

HB 86, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 86.** Agreed.

Representative LeMaster moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 86:**

Amend printed copy of Committee Substitute to **HB 86,** on page 1, line 11, after the word "use" insert the word "whatever";

and on page 1, line 11, after the word "modalities" delete the following: ", such as heat, light, sound, cold, electricity, or mechanical devices related to rehabilitation and treatment", and insert in lieu thereof the following: "are deemed necessary by a team physician";

and on page 5, line 21, after the word "a" delete the word number and insert in lieu thereof the word "minimum" and after the word "of" insert the words "600 clock";

and on page 5, line 22, after the word "trainer" delete the words "according to" and delete lines 23, 24, 25 and 26;

and on page 6, line 1, and on line 2, delete the words "dred (400) hours";

and on page 5, line 22, after the word "trainer", insert the following: ". The board may waive or alter the hour requirements if the applicant can demonstrate equivalent experience".

Agreed.

Representative LeMaster moved that **HB 86,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Maynard, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 16-W. Allen, DeFalaise, DeMarcus, Guenthner, Holloway, Hurst, Lindsay, Little, Marcum, McNutt, Nett, Riner, Robinson, Schmidt, R. Smith, Tobin.

HB 86, by way of Committee Substitute as amended, was passed.

Representative LeMaster moved the adoption of the Committee Amendment No. 1 (Title) to **HB 86.**

The Title Amendment to **HB 86** was adopted by voice vote.

Representative LeMaster moved that the vote by which **HB 86,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 157, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute to **HB 157:**

Amend printed copy of Committee Substitute for **HB 157,** page 12, line 17, by deleting the following words "are not otherwise available" and inserting in lieu thereof after the word "loans" the following words " *have been refused in writing*";

and on page 12, line 18 after the word "lenders" by adding the words "*in the Commonwealth of Kentucky*";

and on page 12, line 24 by deleting the following words "are not otherwise available" and inserting in lieu thereof the words "*have been refused in writing*";

and on page 12, line 25 after the word "lenders" by adding the words "*in the Commonwealth of Kentucky*";

and on page 13, line 6 by deleting the following words "were not otherwise available" and inserting in lieu thereof after the word "loans" the following words "*have been refused in writing*:'

and on page 13, line 7 after the word "lenders" by adding the words "*in the Commonwealth of Kentucky*"

Agreed.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 157:**

Amend printed copy of Committee Substitute for **HB 157** on page 18, line 16, by deleting "*$600,000,000*" and inserting in lieu thereof "*$700,000,000*".

On the roll call the vote was yeas 71-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Bruce, Burch, Burnette, Carpenter, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Head, Hines, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Weinberg, Wells, Williams, Worthington, Wright, Yates. Nays 20-W. Allen, Brinkley, Clarke, DeMarcus, Fitzgerald, Guenthner, Hancock, Holbrook, Hurst, Layman, Lindsay, Marcum, Patrick, Plummer, Rattliff, P. Richardson, Schmidt, Trevey, Van Horn, Wilborn.

The Floor Amendment No. 1 to the Committee Substitute to **HB 157** was adopted.

Representative B. Richardson moved that **HB 157,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 70-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Hancock, Head, Hines, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Priddy, Richards, B. Richardson, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Turner, Weinberg, Wells, Williams, Worthington, Yates.

Nays 23-W. Allen, Boatwright, Clarke, Crupper, Davenport, DeMarcus, Fitzgerald, Guenthner, Holbrook, Holloway, Hurst, Layman, Maynard, Patrick, Petty, Plummer, Rattliff, P. Richardson, Schmidt, Thomas, Trevey, Van Horn, Wilborn.

HB 157, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 157,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 251, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Amendment No. 1 to **HB 251.** Agreed.

Representative Burch moved that **HB 251,** as amended, be passed.

On the roll call the vote was yeas 39-Adams, W. Allen, Arnold, Blandford, Blythe, Burch, Carpenter, Davenport, DeFalaise, DeMarcus, Foster, Hancock, Hines, Holbrook, Hurst, Isler, Jones, Kidd, Layman, List, Marcum, Maynard, McNutt, Morris, O'Brien, Pearman, Petty, Plummer, Rattliff, Richards, P. Richardson, Riner, Robinson, Stewart, Stone, Tobin, Turner, Wilborn, Yates. Nays 28-J. Allen, Beshear, Boatwright, Brinkley, Burnette, Clarke, Craddock, Crupper, Cyrus, Deskins, Fitzgerald, Gray, Guenthner, Guy, Johnson, Kenton, LeMaster, Lindsay, Little, Mann, McBee, McKinney, Overstreet, B. Richardson, Trevey, Van Horn, Worthington, Wright.

HB 251, as amended, was defeated.

HB 355 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the following Floor Amendment No. 1 to **HB 355:**

Amend printed copy of **HB 355,** page 2, after line 4, by adding a new Section 2 to read as follows:

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

"Saturday night special" means any handgun, as defined in KRS 527.010(3), which is:

(1) Less than fifty dollars ($50) in retail sale price; and

(2) Less than .32 inch in bore diameter; and

(3) Less than 3 inches (3") in barrel length.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) No person shall manufacture, import, assemble, sell, transfer, or possess a handgun defined as a "Saturday night special".

(2) The provisions of this section shall not apply to:

(a) Firearms owned by the United States, Commonwealth, an agency, or political subdivision thereof; or

(b) Any peace officer, as defined in KRS 446.010.

Section 4. KRS 237.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 237.030 to 237.050 shall be imprisoned in the penitentiary for not less than one nor more than five years.

(2) Any person who violates subsection (1) of Section 3 of this Act shall be guilty of a class A misdemeanor for the first offense, and of a class D felony for any subsequent offense.

Representative R. Smith moved that Floor Amendment No. 1 to **HB 355** be laid on the table.

On the roll call the vote was yeas 58-Adams, J. Allen, W. Allen, Arnold, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, DeMarcus, Deskins, Dunn, Guenthner, Head, Holbrook, Holloway, Imes, Jones, Kenton, Layman, LeMaster, List, Little, May, McKinney, McNutt Morris, O'Brien, Overstreet, Pearman, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Wells, White, Worthington, Yates. Nays 35-Bendl, Benson, Clarke, Davenport, Dawahare, DeFalaise, Dietz, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Hines, Hurst, Isler, Johnson, Kidd, Kleier, Lindsay, Mann, Marcum, Maynard, McBee, Nett, Patrick, Petty, B. Richardson, Sale, Schmidt, Siemens, F. Smith, Wilborn, Williams, Wright.

The motion that the Floor Amendment No. 1 to **HB 355** be laid on the table was adopted.

HB 33, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Amendment No. 1 to **HB 33.** Agreed.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 1 to **HB 33:**

Amend printed copy of **HB 33,** page 16, line 8, after the words "Section 13." insert the following:

"KRS 68.230 is amended to read as follows:

There shall be in each county a county budgt commission, consisting of the county judge [, the county attorney] and *two (2) members* [one (1) member] appointed by the *county judge/executive with approval of the* fiscal court by an order entered on the *fiscal* [county] court order book. The county judge shall be chairman of the commission. The appointive *members* [member] shall be at least thirty (30) years of age, and *citizens, residents and taxpayers* [a citizen, resident and taxpayer] of the county. Except as provided in KRS 61.070, *they* [he] shall not hold any other public office at the time of appointment, nor have held a public office for at least two (2) years prior to [his] appointment, but shall be eligible for reappointment. The *terms* [term] of the appointive *members* [member] shall expire with the expiration of the terms of the members of the fiscal court appointing *them* [him]."

and on page 16, line 8, before "KRS 68.325" insert the following: "Section 14."

and on page 16, line 10, delete "Section 14." and insert therefor the following "Section 15.".

Agreed.

Representative Fitzgerald moved that **HB 33,** as amended be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-DeMarcus, McKinney.

HB 33, as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 33,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 378 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 53-J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boswell, Burch, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Gray, Guy, Haering, Hancock, Head, Hines, Isler, Kenton, Kidd, LeMaster, List, Little, Mann, May, McBee, McKinney, McNutt, Priddy, B. Richardson, Riner, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Wehite, Wilborn, Worthington, Yates. Nays 30-Adams, W. Allen, Beshear, Boatwright, Brinkley, Brown, Clarke, Fitzgerald, Foster, Guenthner, Holbrook, Holloway, Imes, Kleier, Layman, Lindsay, Marcum, Maynard, Morris, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, Schmidt, Trevey, Van Horn, Wright.

HB 378 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 378** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 41, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the Committee Amendment No. 1 to **HB 41.** Agreed.

Representative Bennett moved the adoption of the Committee Amendment No. 2 to **HB 41.** Agreed.

Representative Bennett moved the adoption of the Committee Amendment No. 3 to **HB 41.** Agreed.

Representative Bennett moved that **HB 41,** as amended, be passed.

On the roll call the vote was yeas 63-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Clarke, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Head, Hines, Holbrook, Hurst, Imes, Isler, Jones, Kenton, Kidd, Lindsay, List, Little, Mann, McBee, Nett, Noe, O'Brien, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Wells, Wilborn, Yates. Nays 15-Burnette, Carpenter, Craddock, Crupper, Foster, Haering, Hancock, Layman, Marcum, McNutt, Patrick, Petty, Tobin, White, Worthington.

HB 41, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which **HB 41,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 162, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **HB 162.** Agreed.

Representative Richards moved that **HB 162,** as amended, be passed.

On the roll call the vote was yeas 49-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Davenport, Dawahare, Deskins, Dunn, Hancock, Imes, Isler, Kenton, Kleier, LeMaster, List, Little, Marcum, McKinney, McNutt, Morris, Noe, O'Brien, Petty, Richards, B. Richardson, P. Richardson, Riner, R. Smith, Stewart, Stone, Trevey, Turner, Van Horn, White, Wilborn, Worthington, Wright. Nays 35-W. Allen, Arnold, Boatwright, Brinkley, Crupper, Cyrus, DeFalaise, DeMarcus, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Holbrook, Holloway, Hurst, Lindsay, Mann, McBee, Nett, Pearman, Plummer, Priddy, Rattliff, Robinson, Romines, Schmidt, Siemens, F. Smith, Thomas, Tobin, Yates.

HB 162, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 162**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 211 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 211** be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 211, as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 211**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 231, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved that **HB 231** be passed.

On the roll call the vote was yeas 79-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Little, Mann, Marcum, McBee, McKinney, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Plummber, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Worthington, Wright, Yates. Nays 3-Blythe, Clarke, Nett.

HB 231 was passed.

Representative White moved the adoption of the Committee Title Amendment to **HB 231.**

The Title Amendment to **HB 231** was adopted by voice vote.

Representative White moved that the vote by which **HB 231** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 239** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 280, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Amendment No. 1 to **HB 280.** Agreed.

Representative Lindsay moved that **HB 280,** as amended, be passed.

On the roll call the vote was yeas 67-Arnold, Bennett, Benson, Beshear, Blythe, Boswell, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, McBee, McKinney, Morris, Nett, Noe, O'Brien, Petty, Plummer, Priddy, Rattliff, B. Richardson, Riner, Romines, Siemens, J. Smith, R. Smith, Stone, Thomas, Trevey, Turner, Van Horn, White, Wilborn, Wright, Yates. Nays 17-Adams, J. Allen, W. Allen, Blandford, Burnette, Crupper, Foster, Hancock, Imes, Layman, Maynard, Patrick, Pearman, Richards, P. Richardson, Robinson, Tobin.

HB 280, was amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 280,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 297 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 297** be passed.

Representative Besehar moved that **HB 297** be laid on the Clerk's desk.

On the roll call the vote was yeas 44-W. Allen, Bendl, Benson, Beshear, Blythe, Brinkley, Bruce, Carpenter, Clarke, Craddock, Davenport, DeFalaise, DeMarcus, Donnermeyer, Foster, Hancock, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Layman, Mann, Marcum, Maynard, McBee, Noe, Pearman, Petty, Rattliff, Richards, Riner, Robinson, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Van Horn, Wilborn, Worthington. Nays 36-Adams, J. Allen, Bennett, Blandford, Boswell, Burch, Burnette, Crupper, Cyrus, Dawahare, Deskins, Dunn, Fitzgerald, Gray, Guy, Haering, Head, Hurst, Imes, Jones, LeMaster, Lindsay, List, Little, McKinney, Morris, Patrick, Plummer, Priddy, B. Richardson, P. Richardson, Romines, Trevey, Turner, Williams, Yates.

The motion that **HB 297** be laid on the Clerk's desk was adopted.

Representative B. Richardson moved that consideration of **HB 393** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 395 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Davenport moved that **HB 395** be passed.

On the roll call the vote was yeas 82-J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Adams, Lindsay.

HB 395 was passed and the title agreed to.

Representative Davenport moved that the vote by which **HB 395** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative B. Richardson moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

HR 14 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HR 14** be adopted.

HR 14 was adopted by voice vote.

HJR 16 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of **HJR 16.**

On the roll call the vote was yeas 67-Adams, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Crupper, Cyrus, Davenport, DeMarcus, Deskins, Dietz, Dunn, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Marcum, McKinney, Morris, Nett, Noe, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Van Horn, White, Wilborn, Worthington, Wright. Nays 8-Craddock, DeFalaise, Donnermeyer, Fitzgerald, Mann, McBee, Pearman, Tobin.

HJR 16 was adopted and the title agreed to.

Representative Brown moved that the vote by which **HJR 16** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

SB 68, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **SB 68.** Agreed.

Representative B. Richardson moved that **SB 68,** as amended, be passed.

On the roll call the vote was yeas 63-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Bruce, Burch, Clarke, Craddock, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Imes, Isler, Kenton, Kidd, Kleier, List, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, O'Brien, Patrick, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson,Riner, Romines, Schmidt, F. Smith, R. Smith, Stewart, Thomas, Trevey, White, Wilborn, Wright, Yates. Nays 10-W. Allen, Boatwright, Brinkley, Dunn, Lindsay, McKinney, Noe, Pearman, Tobin, Van Horn.

SB 68, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 68,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 77 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 77 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 77** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **SB 84** be deferred and that it retain its position in Orders of the Day. Agreed.

SB 91 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 69-Adams, Bendl, Bennett, Beshear, Blandford, Blythe, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Little, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, O'Brien, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, White, Wilborn, Worthington, Wright, Yates. Nays 3-W. Allen, Kleier, Pearman.

SB 91 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 91** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 93 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 80-Adams, J. Allen, Arnold, Bendl, Benson, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, White, Wilborn, Williams, Worthington, Yates. Nays 1-W. Allen.

SB 93 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 93** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 101 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **SB 101** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, W. Allen, Arnold, Bendl, Benson, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Yates. Nays 0.

SB 101 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **SB 101** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 36 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 36** be passed.

On the roll call the vote was yeas 71-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Hancock, Hines, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Patrick, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Wilborn, Williams, Worthington, Yates. Nays 11-Adams, W. Allen, Bruce, Fitzgerald, Haering, Holbrook, Noe, Pearman, Priddy, Romines, Thomas.

SB 36 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 36** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 40 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 62-J. Allen, Arnold, Benson, Beshear, Boatwright, Boswell, Brinkley, Burch, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Petty, Plummer, Richards, B. Richardson, P. Richardson, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Wilborn, Williams, Worthington, Wright, Yates. Nays 20-Adams, W. Allen, Bendl, Bennett, Bruce, Burnette, Fitzgerald, Haering, Holbrook, Layman, Lindsay, Morris, Patrick, Pearman, Priddy, Riner, Romines, Schmidt, Stewart, Trevey.

SB 40 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 40** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 132 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 62-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brown, Bruce, Burch, Burnette, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Deitz, Donnermeyer, Dunn,Fitzgerald, Foster, Guy, Haering, Hancock, Head, Hines, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Little, Mann, Marcum, May, Maynard, Morris, Nett, Noe, O'Brien, Petty, Rattliff, Richards, B. Richardson, P. Richardson, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Wilborn, Williams, Worthington, White. Nays 15-W. Allen, Boatwright, Crupper, Gray, Holbrook, Layman, Lindsay, List, Patrick, Pearman, Plummer, Riner, Schmidt, Thomas, Trevey.

SB 132 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 132** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 84 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Tobin moved that **SB 84** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Noe.

SB 84 was passed and the title agreed to.

Representative Tobin moved that the vote by which **SB 84** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 153 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, R. Smith, Stewart, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 153 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 153** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

The Speaker vacated the Chair.

Representative Imes presiding.

Introduction of Bills and Resolutions

HB 652, by Representative List: AN ACT relating to housetrailers.

HB 653, by Representative List: AN ACT relating to housetrailers.

HB 654, by Representatives Boswell, Pearman, Johnson, Patrick and Williams: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to property exempt from taxation.

HB 655, by Representative Wilborn: AN ACT relating to taxes.

HB 656, by Representative Van Horn: AN ACT relating to jury trials.

HB 657, by Representative Morris: AN ACT relating to waterworks.

HB 658, by Representative Donnermeyer: AN ACT relating to sales and use taxes.

HB 659, by Representatives Dunn, Yates, Priddy, Bendl, Bennett, Benson, Blandford, Burch, Guenthner, Haering, Hines, Holloway, Kidd, Kleier, Maynard, Nett, O'Brien, Patrick, Riner, Romines, Siemens, Williams, Wright: AN ACT relating to fiscal courts.

HJR 78, by Representatives J. Allen and Weinberg: A JOINT RESOLUTION relating to weather and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 565, HB 638.**

State Government: **HB 319, HB 569, HB 585, HB 566, HR 66.**

Appropriations and Revenue: **HB 476, HB 533, HB 349.**

Counties and Special Districts: **HB 514, HB 474, HB 628, HB 602, HB 570, HB 535.**

Business Organizations and Professions: **HB 616, HB 642.**

Labor and Industry: **HB 573, HB 629, HB 634, HB 275, HB 270.**

Banking and Insurance: **HB 486, HB 489.**

Judiciary-Statutes: **HB 490, HB 487.**

The Clerk announced the following Bill has been withdrawn from Committee consideration:

Health and Welfare: **HB 336.**

Report of Committees

The Committee on Health and Welfare reported **HB 79** with Committee Substitute attached thereto, **HB 217** with Committee Substitute attached thereto, HB 219 with Committee Substitute attached thereto, and **HB 15** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 79, AN ACT relating to day-care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Department" means the department for human resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility, other than those set out in KRS 158.300, which provides full or part-time care, day or night, to at least four (4) children not related to the operator of the child-care facility by blood, marriage or adoption. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

(4) "Basic child care center" means one primarily providing for the safety and general welfare of a child;

(5) "Developmental care center" means one providing not only for a child's general welfare, but also for planned and structured activities contributing to his intellectual, physical, and emotional growth.

Section 2. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate or maintain any day-care center without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and *shall establish standards and guidelines for the licensing of day-care centers as developmental care centers or basic child care centers* [may establish standards of care and service for the day-care center].

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period prescribed by the secretary.

(4) Each initial application for a license shall be made to the department and shall be accompanied by a fee of not more than thirty-five dollars ($35.00) and shall, excepting provisional licenses, be renewable upon expiration and reapplication when accompanied by a fee of not more than ten dollars ($10.00). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed twelve (12) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the department.

The Committee Substitute to **HB 79** is as follows:

HB 79, AN ACT relating to day-care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Department" means the department for human resources;

(2) "Secretary" means secretary for human resources;

(3) "Day-care center" means any child-care facility, other than those set out in KRS 158.300, which provides full or part-time care, day or night, to at least four (4) children not related to the operator of the child-care facility by blood, marriage or adoption. Day-care center shall not include any child-care facility operated by a religious organization while religious services are being conducted.

Section 2. KRS 199.896 is amended to read as follows:

(1) No person, association or organization shall conduct, operate, [or] maintain *or advertise* any day-care center *or home* without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center *and procedures for enforcement of penalties.*

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period *of six (6) months* [prescribed by the secretary].

(4) Each initial application for a license shall be made to the department and shall be accompanied by a fee of not more than thirty-five dollars ($35.00) and shall, excepting provisional licenses, be renewable upon expiration and reapplication when accompanied by a fee of not more than *twenty* [ten] dollars *($20.00)* [($10.00)]. Regular licenses and renewals thereof shall expire *two (2) years* [one (1) year] from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed *(six (6)* [twelve (12)] months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the department.

(7) Any advertisement for child care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day care centers and homes by the department for human resources shall be unannounced.

(9) Any person who operates a day care center or home without proper licensing shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

HB 217, AN ACT relating to the rights of residents in long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in this Act for the purpose of receiving personal care and assistance.

(3) "Department" means the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident, his family and guardian shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of his family or guardian of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(2) Before admission to a long-term care facility, the resident, his family and guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of his family or guardian of all resident's responsibilities and rights as defined in this Act. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(3) The resident, his family and guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgement and that of his family or guardian prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident, his family and guardian are responsible for paying. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for non-payment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident, his family and his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies and except as authorized in writing by a physician for a specified and limited period of time.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident, his guardian and family shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage his personal financial affairs. If the facility accepts this responsibility in writing, proper accounting and monitoring shall be made of the resident's personal funds and possessions. This

shall include giving quarterly itemized statements to the resident, his family and guardian for the transactions in which personal funds and possessions of the resident are received or disbursed. Each facility shall maintain a separate banking account for each resident's personal funds. The facility shall return to the resident his valuables, personal possessions, and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged, the resident's valuables, personal possessions and funds shall be promptly returned to the resident's family and guardian.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless medically contraindicated and documented by a physician.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened, unless medically contraindicated, as documented by their physicians in their medical records.

(12) Residents may retain the use of their personal clothing, unless medically contraindicated or unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will unless medically contraindicated by his physician and documented in his medical record. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion unless medically contraindicated, as documented by their physicians in their medical records.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident, his family and guardian shall be permitted the choice of physician and pharmacist.

(17) If the resident is adjudicated incompetent in accordance with state law, the resident's guardian or committee shall be authorized to act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident, his family, and guardian shall be fully informed of his medical condition unless medically contraindicated or documented by a physician in his medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's family or guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have at least semi-annual private meetings with the appropriate long term care facility inspectors from the department for human resources.

(24) Each resident, his family, and guardian has the right to be informed about the deficiencies that have been found to exist in a long term care facility by the appropriate inspectors from the department for human resources.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

For the purpose of supplementing the rights of residents in long term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in this Act.

(2) Every long term care facility shall develop and implement a mechanism which will allow residents, their families and guardians to participate in the planning of the residents' care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident, his family and guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the department.

(4) Every long term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in this Act.

(5) All long term care facilities shall conspicuously post summaries of the most recent inspection report as performed by the appropriate inspectors from the department. The department shall provide all long term care facilities with summaries of the most recent inspection report.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

For the purpose of supplementing, monitoring and enforcing the rights of residents in long term care facilities, the department shall take the following actions:

(1) The department shall design and distribute posters to all long term care facilities which clearly detail how the resident, his family and guardian, or a visitor may make a written or oral complaint to the department in regard to the quality of care given by a particular facility. These posters shall be conspicuously displayed throughout each long term care facility.

(2) The department shall annually conduct an on-site audit of the manner in which each long term care facility safeguards each resident's personal funds and possessions.

(3) The department shall take appropriate and necessary actions to insure that all of the rights of residents in long term care facilities as defined by this Act are upheld.

The Committee Substitute to **HB 217** is as follows:

HB 217, AN ACT relating to the rights of residents in long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in this Act for the purpose of receiving personal care and assistance.

(3) "Department" means the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing as evidenced by the resident's written acknowledgement and that of his responsible family member or his guardian or his committee of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgement and that of his responsible family member or his guardian or his committee of all resident's responsibilities and rights as defined in this Act. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(3) The resident and his responsible family member or his guardian or his committee shall be fully informed in writing, as evidenced by the resident's written acknowledgement and that of his responsible family member, or his guardian or his committee prior to or at the time of admission and guarterly during the resident's stay at the facility of all service charges for which the resident and his responsible family member or his guardian or his committee are responsible for paying. The resident and his responsible family member or his guardian or his committee shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgement in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for non-payment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and his responsible family member or his guardian or his committee.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies and except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident and his responsible family member or his guardian or his committee shall approve or refuse the release of such

records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgement, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and his responsible family member or his guardian or his committee which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of monies from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible family member, or his guardian, or his committee.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and his responsible family member or his guardian or his committee shall be permitted the choice of a physician.

(17) If the resident is adjudicated incompetent in accordance with state law, the resident's guardian or committee shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and his responsible family member or his guardian or his committee has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible family member or his guardian or his committee shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the department for human resources.

(24) Each resident and his responsible family member or his guardian or his committee has the right to have access to all inspection reports on the facility.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in this Act.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and his responsible family member or his guardian or his committee to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and his responsible family member or his guardian or his committee. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the department.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in this Act.

(5) All long-term care facilities shall maintain in their facilities one copy of the most recent inspection report as prepared by the department for human resources. The department shall provide all long-term care facilities with one copy of the most recent inspection report.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

For the purpose of supplementing, monitoring and enforcing the rights of residents in long-term care facilities, the department shall take the following actions:

(1) The department shall design and distribute posters to all long-term care facilities which clearly detail how the resident and his responsible family member or his guardian or his committee or a visitor may make a written or oral complaint, anonymously if they so choose, to the department in regard to the quality of care given by a particular facility. These posters shall be conspicuously displayed throughout each long-term care facility.

(2) The department shall take appropriate and necessary actions to insure that all of the rights of residents in long-term care facilities as defined by this Act are upheld.

HB 219, AN ACT relating to inspection of long term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Department" means the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All inspections of long term care facilities by the department shall be unannounced.

The Committee Substitute to **HB 219** is as follows:

HB 219, AN ACT relating to inspection of long term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Long term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Department" means the department for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

All annual inspections of long term care facilities performed by the department shall be unannounced and no regulations promulgated by the department shall be to the contrary. All unannounced annual inspections of long term care facilities shall be conducted in accordance with the rules and regulations promulgated by the department setting forth the parameters of such inspections.

HB 15, AN ACT relating to short term crisis assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The department for human resources shall conduct in conjunction with the counties or their

designees a program of short term crisis assistance whereunder assistance shall be rendered for a maximum of ninety (90) days during any twelve (12) month period beginning with the first date of application to persons who, through accident or circumstances, are in need.

(2) The secretary of the department for human resources shall determine:

(a) A formula for setting amounts of assistance for short term crisis assistance benefits, which shall not exceed those for which recipients of public assistance are eligible, in order to obtain the greatest benefit from funds available in a fiscal period and to assure that available funds last through the fiscal period;

(b) The degree of proof necessary for the applicant to establish eligibility which shall include social security number, two (2) collateral references, and employment history; and

(c) Further conditions of eligibility by taking into account the income available to the person, when added to contributions in money, substances, or services from other sources, including contributions from legally responsible relatives.

(3) The assistance shall be administered by each county or its designee in accordance with regulations and procedures promulgated by the department for human resources. Each county or its designee shall adhere to the eligibility criteria for short term crisis assistance as established by the department for human resources and the department shall conduct a statewide training program to insure understanding and proper implementation of the program. The department shall supervise the program to insure program uniformity in each county throughout the state. If the administrating agency does not conduct the program according to public regulations the department for human resources may designate another agency within that county to administer the program.

(4) The right to appeal the denial of assistance shall be as provided under KRS 205.231, 205.234, and 205.237. The applicant shall be informed of his right to appeal the denial of assistance at the time of the application.

(5) Assistance shall be disbursed by a voucher system or money payment as soon as possible, but no longer than three (3) days after application for assistance if initial requirements for eligibility are met. Sources and amounts of income available to any applicant or recipient of short term crisis assistance benefits shall be thoroughly investigated within a reasonable time to insure that eligibility requirements are met.

(6) The funding of the short term crisis assistance program shall be through state county matching funds with the state's share being seventy-five percent (75%) in those counties with a city having a population of 25,000 persons or greater and the state's share being ninety percent (90%) in those counties with no city having a population of 25,000 persons or greater. The county's share shall be twenty-five percent (25%) and ten percent (10%) respectively. The funds appropriated by the general assembly shall be made available to the counties on a per capita basis.

(7) Recipients shall register for employment with the state employment service and shall accept suitable training or suitable employment. Standards of suitability for training and employment shall be the same as for recipients of public assistance benefits. There shall be a work disregard of income which shall be the same as the current work disregard for parents of a needy child who are receiving public assistance through the department.

(8) Any recipient of short term crisis assistance program benefits who subsequently receives retroactive monetary benefits for the same purpose from a governmental agency or workmen's compensation shall repay to the disbursing agency so much of any such recovery as may be necessary to reimburse the disbursing agency for the short term crisis assistance benefits. The disbursing agency may require any applicant as a condition precedent to receiving assistance to execute an assignment to the disbursing agency of any such anticipated benefit.

(9) The department for human resources shall collect and publish data to document whether there is a continuing need for short term crisis assistance. This data shall include the number of persons who apply for such assistance, the number of persons found eligible and the circumstances for such applications.

(10) The department shall expend any sums appropriated by the general assembly for the purpose of providing short term crisis assistance to eligible persons.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly makes a false statement or representation or who knowingly fails to disclose a material fact in order to secure or continue benefits under the provisions of this Act, shall be fined not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250), or confined in the county jail for not more than sixty (60) days, or both. Each false statement, representation, or failure to disclose a material fact shall constitute a separate offense.

The Committee Substitute to **HB 15** is as follows:

HB 15, AN ACT relating to crisis assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) There is created within the department a crisis oriented program for emergencies which shall provide money payment to individuals who meet standards promulgated by the secretary.

(2) Payments under the authority of this section shall be for a period not to exceed thirty (30) days during a twelve (12) month period.

(3) At its discretion, the department may elect to make payments to vendors in lieu of payment to eligible clients, and such payments to vendors may be supplemental to the cash assistance provided for in subsection (4)(d) of this section.

(4) For the purposes of implementing the provisions of this Act:

(a) A precipitating crisis shall not be the only standard for which individuals may be eligible to receive assistance, and the principal standard of eligibility shall be financial need, or impending destitution;

(b) No person eligible for programs operated under the authority of title IV-A of the social security act (aid to families with dependent children) shall be eligible for participation in the crisis oriented program for emergencies;

(c) Program benefits shall be limited to both single and married adults, whose children, if any, are not under the age of twenty-one (21) years, and provided the recipient or recipients are not residing with parents or any other family;

(d) Cash assistance shall be provided in an amount not to exceed the amount for which an individual is eligible and available income shall be considered in making such determination.

(5) In cases of extreme crisis as determined by the secretary or his designee the department may waive the thirty (30) day limitation enumerated in subsection (2) of this section.

(6) Any recipient of crisis oriented program for emergencies benefits who subsequently receives retroactive monetary benefits for the same period shall repay to the department so much of any recovery as may be necessary to reimburse the department for the crisis oriented program for emergencies benefits. The department may require any applicant as a condition precedent to receiving assistance to execute an assignment to the department of any such anticipated benefit.

(7) Recipients shall register for employment with the state employment service and shall accept suitable training or suitable employment. Standards of suitability for training and employment shall be the same as for recipients of public assistance benefits.

(8) All money payments made by the department under the provisions of this Act shall be paid as soon as is administratively practicable after an application has been filed with the department.

Announcements

The Clerk announced the filing of petitions to removed **SB 33, SB 19,** and **SB 58** from Consent Orders of the Day.

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to the Committee Substitute to **HB 79** by Representative Bendl.

Floor Amendment No. 1 to the Committee Substitute to **HB 187** by Representative F. Smith.

Floor Amendment No. 1 to **HB 221** by Representative White.

Floor Amendment No. 1 to **HB 239** by Representative Arnold.

Floor Amendment No. 1 to **HB 250** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 268** by Representative Schmidt.

Floor Amendment No. 1 to **HB 297** by Representative Clarke.

Floor Amendment No. 2 to **HB 297** by Representative DeFalaise.

Floor Amendment No. 7 to **HB 332** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 354** by Representative LeMaster.

Floor Amendment No. 1 to the Committee Substitute to **HB 359** by Representative B. Richardson.

Floor Amendment No. 2 to the Committee Substitute to **HB 359** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 382** by Representative Deskins.

Floor Amendment No. 2 to the Committee Substitute to **HB 393** by Representative Mann.

Floor Amendment No. 3 to the Committee Substitute to **HB 393** by Representative McBee.

Floor Amendment No. 1 to **HB 469** by Representative Imes.

Floor Amendment No. 1 to **SB 92** by Representative B. Richardson.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, February 23, 1978.

On the roll call the vote was yeas 41-Beshear, Boatwright, Boswell, Clarke, Craddock, Crupper, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Foster, Haering, Head, Hines, Holbrook, Isler, Johnson, Jones, Kidd, Layman, List, Mann, Marcum, May, McBee, Noe, Petty, Plummer, Richards, B. Richardson, Riner, Romines, Schmidt, F. Smith, Stone, Thomas, Van Horn, Weinberg, Wilborn, Worthington. Nays 9-Fitzgerald, Gray, Guenthner, Hurst, Imes, Kleier, Priddy, P. Richardson, Williams.

The motion to adjourn was adopted.

THURSDAY, FEBRUARY 23, 1978

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Father Ivoe Cecil, St. Christopher's Church, Radcliff, Kentucky.

The roll was called. All present except Representative R. Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 22, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 660, by Representative B. Richardson: AN ACT relating to state government professional employment.

HB 661, by Representative B. Richardson: AN ACT relating to higher education.

HB 662, by Representatives F. Smith and Wright: AN ACT relating to individual income taxes.

HB 663, by Representative LeMaster: AN ACT relating to the cession of concurrent jurisdiction over portions of the Federal Correctional Institution in Lexington, Kentucky.

HB 664, by Representative Gray: AN ACT relating to controlled substances.

HB 665, by Representative Guenthner: AN ACT changing the classification of the city of Northfield, in Jefferson County.

HB 666, by Representatives Morris, Imes, Guenthner, and Fitzgerald: AN ACT relating to motor vehicle registration, titling and theft.

HJR 79, by Representative Fitzgerald: A JOINT RESOLUTION directing the creation of a local government statute revision commission and making an appropriation therefor.

Senate Message

Announcing passage of **SB 48, SB 70, SB 124, SB 143, SB 175, SB 178, SB 182, SB 224, SB 226,** and **HB 24.**

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HR 78.**

Appropriations and Revenue: **HB 653, HB 655, HB 658.**

Cities: **HB 657.**

Counties and Special Districts: **HB 659.**

Education: **HR 76.**

Elections and Constitutional Amendments: **HB 654.**

Health and Welfare: **HB 650.**

Judiciary-Courts: **HB 649, HB 656.**

Judiciary-Statutes: **HB 651.**

Public Utilities and Transportation: **HB 652.**

State Government: **HR 74, HR 75, HR 77.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HB 621, HB 646, HCR 69, HR 72.**

Banking and Insurance: **SB 72.**

Counties and Special Districts: **HB 635.**

Judiciary-Statutes: **HB 521, HB 507, HB 561, HB 379.**

Public Utilities and Transportation: **SB 94, HB 623.**

State Government: **HB 622, HB 373.**

Report of Committees

The Committee on Rules reported **HB 250, HB 1, HB 152, HB 194, HB 262,** and **HB 398** have been posted for passage in Orders of the Day, February 24, 1978.

The Committee on Rules reported **SB 107** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Agriculture and Natural Resources reported **HB 534** and **HB 540** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 534, AN ACT relating to pesticide applicators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.130 is amended to read as follows:

(1) The department shall not issue a pesticide applicator's license until the applicant has furnished evidence of financial responsibility with the department consisting either of a surety bond or a liability insurance policy or certification thereof protecting persons who may suffer legal damages as a result of the operations of the applicant *with the exception of applicators using only ground equipment for applying pesticides to agricultural lands, crops, or plants. When a license is issued without evidence of financial responsibility, equipment to be used by the licensee shall be required to display a license plate or decal issued by the department at no cost to the applicant, with an inscription informing persons that the applicator or licensee does not provide protection against losses arising from the application of pesticides under KRS 217B.130. It is the responsibility of the licensee to notify the department in writing if any changes in status are to be made* [;provided, that such surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants, or land being worked upon by the applicator].

(2) The amount of the surety bond or liability insurance as provided for in this section shall be not less than $100,000 for public liability and not less than $25,000 for property damage, including loss or damage arising out of the actual use of any pesticide. Such surety bond or liability insurance shall be maintained at not less than those amounts at all times during the licensed period. The department shall be notified ten (10) days prior to any reduction at the request of the applicant or cancellation of such surety bond or liability insurance by the surety or insurer. The total and aggregate of the surety and insurer for all claims shall be limited to the face of the bond or liability insurance policy. The department may accept a liability insurance policy or surety

bond in the proper sum which has a deductible clause in an amount not exceeding $1,000 for all applicators for the total amount of liability insurance or surety bond required herein. If the applicant has not satisfied the requirements of the deductible amount in any prior legal claim, such deductible clause shall not be accepted by the department unless such applicant furnishes the department with a security bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.

(3) Should the surety furnished become unsatisfactory, said applicant shall upon notice execute a new bond or insurance and shall he fail to do so, the department shall cancel his license and it shall be unlawful thereafter for such person to engage in said business of applying pesticides until the bond or insurance is brought into compliance with the requirements of subsection (2) of this section and his license is reinstated by the department.

(4) Nothing in this chapter shall be construed to relieve any person from liability for any damage to the person or lands of another caused by the use of pesticides even though such use conforms to the rules and regulations of the department.

Section 2. KRS 217B.180 is amended to read as follows:

(1) The provisions of this chapter relating to licenses and requirements for their issuance shall not apply to any farmer owner of ground equipment applying non-restricted use pesticides for himself or his farmer neighbors; Provided, that:

(a) [He operates farm property and operates and maintains pesticide application equipment primarily for his own use;

(b)] He applies the pesticides for his farmer neighbors without compensation other than trading of personal services;

(b) All equipment not engaged in the application of pesticides for hire shall be identified by a license plate or decal furnished by the department at no cost to the owner with an inscription informing persons that such equipment is not to be used in the application of pesticides for hire under KRS 217B.070. It is the responsibility of the owner to inform the department in writing if any changes in status are to be made.

[(c) He is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and that he shall not publicly hold himself out as a pesticide applicator.]

(2) The licensing provisions of this chapter shall not apply to any person using handpowered equipment, devices, or contrivances to apply non-restricted use pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve (12) feet high, as an incidental part of his business of taking care of household lawns and yards for remuneration; that such person shall not publicly hold himself out as being in the business of applying pesticides.

(3) This chapter shall not apply to operators presently licensed and regulated under the provisions of KRS 249.250 to 249.340, except that if required by EPA regulations such persons may be issued, without additional fees or examination, an applicator's license to enable them to purchase and use restricted use pesticides pursuant to the requirements of the Federal Environmental Pesticide Control Act of 1972.

HB 540, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.350 is amended to read as follows:

Any state federation organized pursuant to KRS 247.330 and 247.340 shall have the following organization and function in the following manner:

(1) The said federation shall hold an annual meeting at a date to be fixed by its bylaws, which annual meeting may be referred to as the "annual convention" of said federation.

(2) Each county farm bureau a member of said federation shall be entitled to one (1) voting delegate at said convention for the first fifty (50) paid-in *regular* memberships, *as defined in the bylaws of the federation,* received during the year ending prior to said state convention. Each additional one hundred (100) paid-in *regular* memberships or major portion thereof shall entitle the county farm bureau to an additional voting delegate. No voting delegate shall vote by proxy, unless the proxy is in writing in a form approved by the board of directors of the state federation.

(3) The governing body of said state federation shall consist of a board of directors of not less than seven (7) members. The distribution of said directors shall be by state federation districts, and set forth in the bylaws of the corporation. Each director shall be elected for a term of two (2) years, shall be a resident of the district from which he is elected, must be actively engaged in farming, or evidencing a primary interest therein by reason of his position or occupation, and shall be nominated by the voting delegates of said district and elected by a majority vote of the voting delegates voting either in person or by proxy at said election.

(4) Said state federation, by bylaws, shall have authority to provide for additional directors representing cooperating agricultural agencies.

(5) The officers of said federation shall consist of a president, a first vice president, and a second vice president, who shall be elected by majority vote cast by the voting delegates at the annual convention, and there shall be an executive officer of the corporation, who shall be elected by the board of directors, and who shall be an ex officio member of the board, without power to vote.

(6) The board of directors shall select from its membership an executive committee composed of three (3) persons, and said committee shall have general charge of the management of the business of the federation in the interim between meetings of the board of directors and shall possess such powers, duties and responsibilities as may be provided in the bylaws of the federation or by resolution of the board of directors.

Section 2. KRS 247.370 is amended to read as follows:

(1) Every county farm bureau organized pursuant to KRS 247.250 shall be eligible to membership in any said state federation, but after its admission to membership, said federation shall have power to suspend its membership or expel it for failure to comply with any bylaws or reasonable rule or regulation of the federation.

(2) Any said state federation shall have authority to:

(a) Adopt, amend and repeal bylaws and amendments thereto by *two-thirds (2/3)* [majority] vote of the voting delegates voting at an annual convention;

(b) Assess annual membership dues against each county farm bureau, and base the amount thereof on the number of paid-in memberships in each county farm bureau;

(c) Acquire, own and hold property, pursuant to action of its board of directors, or by its executive committee upon authorization or approval of its board of directors;

(d) Borrow money and mortgage or pledge its property or assets by action of its board of directors, or, by its executive committee, upon authorization or approval of its board of directors;

(e) Accept gifts, devises and bequests, appropriate and expend its funds, pursuant to action of its board of directors, or its executive committee, upon authorization or approval by its board of directors, for the advancement of agriculture and allied interests and for any purposes deemed advisable to carry on its activities; and

(f) Do anything necessary to carry out the purpose for which it is organized.

The Committee on Appropriations and Revenue reported **HB 168, HB 441,** HB 603 with Committee Amendment attached thereto, and **HB 93** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 168, AN ACT relating to textbooks and supplementary materials and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) The department of libraries shall purchase for distribution without cost to pupils attending grade one (1) through grade twelve (12) of the state's nonpublic schools which have been accredited by the state department of education:

(a) Textbooks from publishers whose books have been adopted by the state textbook commission; and

(b) Supplementary instructional materials of a non-religious nature.

(2) The chief school administrator of each eligible school may file a requisition with the state librarian for the books and materials needed for the next ensuing school term. Textbooks and supplementary instructional materials eligible for distribution by grade level or subject shall conform to the schedule in use by the state board of education for distribution to the public schools.

(3) The state librarian shall develop rules and regulations governing the purchase, requisition, distribution, assignment to students, care, use and return of textbooks and supplementary instructional materials, and a plan for permanently labeling the textbooks and supplementary instructional materials as the property of the department of libraries. The rules and regulations shall be developed in consultation with the department of education and shall conform, within statutory limits, to the rules and regulations already established by the state board of education.

(4) All textbooks and supplementary instructional materials purchased under the provisions of this Act are the property of the state. Each school administrator obtaining books and materials through the department of libraries is custodian of the books and materials in his school. He shall issue the books and materials to the students according to the rules and regulations formulated by the state librarian.

(5) Funds appropriated by the general assembly to the department of libraries for this purpose shall not be considered as or commingled with common school funds and shall be allocated each year to the nonpublic schools at an equal amount per pupil in average daily membership according to the procedures set forth in the Kentucky state plan for administering the textbook program.

Section 2. To carry out the provisions of this Act, there is appropriated to the department of libraries $1,407,128 for the 1978-80 biennium.

HB 441, AN ACT relating to the compensation of property valuation administrators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 132.590(4), the department of revenue may approve the compensation of a property valuation administrator taking office for the first time, at the second or third step of the grade classification of his county, provided that any such exception is based on prior experience as a full time deputy or assistant in a property valuation administrator's office. Such exceptions may apply to property valuation administrators elected in 1977 and thereafter. Further, the department is authorized to change its procedure for compensation of property valuation administrators coming under this provision to conform with any change in the basic provisions of state personnel regulations.

HB 603, AN ACT relating to general appropriations to the Legislative Research Commission for the operation, maintenance, support, and functioning of the Legislative Branch of government and its agencies of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART ONE
GENERAL FUND

There is appropriated to the Legislative Research Commission out of the General Expenditure Fund for the fiscal year beginning July 1, 1977, and ending June 30, 1978, for the fiscal year beginning July 1, 1978 and ending June 30, 1979; and for the fiscal year beginning July 1, 1979 and ending June 30, 1980, the following sums:

I GENERAL ASSEMBLY

A. Legislative Services and Session Compensation.

1977-1978	$ 210,000
1978-1979	$ 287,000
1979-1980	$1,697,900

Any unexpended balance remaining at the close of the 1978-1979 fiscal year shall not lapse, but shall continue into the 1979-1980 fiscal year.

B. Monthly Expenses and Retirement Contributions for Legislators.

1978-1979	$1,107,650
1979-1980	$ 936,257

C. Interim Committees; Special Advisory Commissions and Study Committees.

1978-1979	$ 656,900
1979-1980	$ 513,750

Includes funds for operating expenses and staff services of interim joint and interim special subcommittees of the commission as provided for in KRS Chapter 7.110(5). Any unexpended balance remaining at the close of the 1978-1979 fiscal year shall not lapse, but shall continue into the 1979-1980 fiscal year.

D. Electronic Data Processing.

1978-1979	$ 124,000
1979-1980	$ 141,000

Any unexpended balance remaining at the close of the 1978-1979 fiscal year shall not lapse, but shall continue into the 1979-1980 fiscal year.

E. Legislative Interns.

1979-1980	$ 80,000

For the costs of maintaining the legislative intern program during the 1980 session of the General Assembly.

F. Facilities Improvements.

1978-1979	$ 300,000
1979-1980	$ 50,000

For the cost of improvements and equipment as may be required. Any unexpended balance remaining at the close of the 1978-1979 fiscal year shall not lapse, but shall continue into the 1979-1980 fiscal year.

I TOTAL GENERAL ASSEMBLY

1977-1978	$ 210,000
1978-1979	$2,475,550
1979-1980	$3,418,907

II LEGISLATIVE RESEARCH COMMISSION

1977-1978	$ 70,000
1978-1979	$3,592,070
1979-1980	$3,708,796

Any unexpended balance remaining at the close of the 1978-1979 fiscal year shall not lapse, but shall continue into the 1979-1980 fiscal year.

GRAND TOTAL LEGISLATIVE

1977-1978	$ 280,000
1978-1979	$6,067,620
1979-1980	$7,127,703

PART TWO

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Legislative Research Commission for the fiscal year ending June 30, 1979, and the fiscal year ending June 30, 1980, all the receipts from the sale of publications and administrative regulations, and any unexpended balance remaining in the commission's existing Trust and Agency account at the close of the fiscal year ending June 30, 1978.

PART THREE

There being an immediate need for certain of the above appropriations which are provided for the current fiscal year, ending June 30, 1978, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to **HB 603** is as follows:

Amend printed copy of **HB 603,** page 3, line 21, by deleting "1978-1979" and inserting in its place "1977-1978“; and on

line 22, by deleting "1979-1979" and inserting in its place "1978-1979“.

HB 93, AN ACT relating to the motor fuel tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.662 is amended to read as follows:

(1) City and suburban bus companies *and taxi cab companies* operating under a certificate of convenience and necessity issued pursuant to KRS Chapter 281 shall be entitled to a refund of seven-ninths of the amount of KRS Chapter 138 taxes paid on motor fuels used in their regularly scheduled operations in Kentucky.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the Department of Revenue a bond issued by a surety company authorized to do business in Kentucky in an amount of not less than one thousand dollars nor more than five thousand dollars to be determined by the Department of Revenue, conditioned upon faithful compliance with this section and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) Applications for refund shall on or before the last day of each month following the quarter, September 30, December 31, March 31, and June 30, be made to the Department of Revenue on forms and in the manner prescribed by it for the refund of tax paid on motor fuel used by buses *or taxicabs* during the quarter*; except that a taxicab company may file an application within ninety (90) days after the close of the fiscal year in which the purchases were made*. Each application for a refund shall show the number of gallons of motor fuel purchased during the quarter for use in buses *or taxicabs*; the date and quantity of each purchase; the vendor from whom such fuel was purchased; the number of gallons on which refund is claimed;

and such other information as the Department of Revenue may require. The application shall be made under oath. *Invoices shall be attached to applications from taxicab companies.*

(4) The department may require any gasoline dealer or any dealer's authorized agent to identify gasoline sold by him for taxicab use by adding thereto any chemical or substance, which shall be furnished by the department and used in the manner as prescribed by the department. The department also may require that the dealer keep a complete record of all such gasoline sold by him, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold, and the sale price.

(5) [(4)] The Department of Revenue shall audit the application and make such other investigation as it deems necessary to determine whether it constitutes a proper claim. When the Department of Revenue is satisfied that a refund is proper it shall authorize seven-ninths of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current motor fuel tax receipts.

(6) [(5)] When the Department of Revenue finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the Department of Revenue shall refuse to grant any refunds to the person making such false or fraudulent statement or fraudulently obtaining a refund for a period of two years from the date of such findings.

(7) [(6)] The Department of Revenue may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(8) [(7)] The refund provided herein shall be effective on motor fuel purchased July 1, *1978* [1972] and thereafter.

The Committee on Cities reported **HB 439, HB 523,** and **HB 563** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 439, AN ACT changing the classification of the City of Brownsville, in Edmonson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Brownsville, in Edmonson County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Brownsville, in Edmonson County, is transferred from the sixth to the fifth class of cities.

HB 523, AN ACT relating to sinking funds in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

As used in KRS 91.130-91.180, the terms "commissioners" and "commissioners of the sinking fund" shall mean the commissioners of the sinking fund of every city of the first class, and the term "sinking fund" shall mean the sinking fund of every city of the first class.

Section 2. KRS 91.130 is amended to read as follows:

(1) The sinking fund to pay the *general obligation* bonded debt of the city is continued as established by law. The mayor, the president of the board of aldermen, and three (3) persons chosen as provided in subsection (2) of this section, shall constitute the "commissioners of the sinking fund" of the city, and by that name shall continue to have corporate powers and existence, may sue and be sued, and do everything necessary to execute the duties and powers conferred upon them by law. The commissioners may make and enforce bylaws, [and] rules *and regulations,* not contrary to law, for the conduct of the business of the sinking fund, and may have and use a common seal, or act without a seal.

(2) The commissioners, other than the mayor and the president of the board of aldermen, shall be chosen by the board of aldermen for a term of three (3) years and until their successors have qualified. The board of aldermen shall, in October of each year, elect a commissioner to fill the place of the commissioner whose term expires that year. If the board of aldermen fails to elect in that month, the election shall be made by the commissioners themselves. If the person elected by the board of aldermen fails to qualify within ten (10) days after his election, he shall be regarded as declining to act, and the commissioners shall, at one (1) of their regular meetings, elect a person to fill the vacancy.

(3) No person who is a member of the board of aldermen, or an officer of the city, county or state, or who does not possess the qualifications required for members of the board of aldermen in cities of the first class, shall be eligible to be elected a commissioner [of the sinking fund].

(4) Each commissioner [of the sinking fund], before entering upon the discharge of the duties of his office, shall make oath to discharge the duties of his office faithfully and according to law. The oath shall be reduced to writing, signed by the affiant and attested by the officer administering the oath, and shall be filed and kept as a part of the records of the sinking fund.

(5) The board of aldermen may remove any commissioner from office for malfeasance or misfeasance in the same manner as it may remove executive and ministerial officers of the city.

(6) The commissioners may allow each commissioner, other than the salaried officers, compensation for attending the meetings of the commissioners, but not more than ten dollars ($10.00) for each meeting attended, and they may allow a reasonable compensation to those members for any special services required of them by the commissioners.

Section 3. KRS 91.140 is amended to read as follows:

(1) The commissioners [of the sinking fund] shall annually elect one (1) of their number president.

(2) The commissioners [of the sinking fund] shall, by a majority vote, elect a treasurer and secretary, who shall give bond with good and sufficient surety, to be approved by the commissioners, and shall take oath in the manner required of the commissioners by subsection (4) of KRS 91.130. He shall hold office for four (4) years and until his successor is qualified. Vacancies shall be filled by appointment of the commissioners. The treasurer and secretary shall keep an accurate record of all proceedings of the board of commissioners, receive and disburse all moneys by order of the commissioners and keep an accurate account thereof, and perform all other acts required of him by the commissioners. He shall account for all money and other things of value belonging to the sinking fund that come into his hands or control.

(3) The commissioners shall elect all officers and appoint all employes of the sinking fund, prescribe their duties and fix their compensation. They may provide in bylaws for deductions to be made from the compensation of officers and employes for neglect of duty or violation of the bylaws. All officers and employes, except the treasurer and secretary and the president, shall hold office at the pleasure of the commissioners, as prescribed in the bylaws.

(4) Employes of the sinking fund designated by the board of commissioners, have the same power as peace officers, coextensive with the county in which the city is located, in the enforcement of all ordinances [passed pursuant to KRS 92.281, 91.200 to 91.270, 137.410, 186.270, 186.281, or any other ordinance] of a city of the first class [,] which *levy* [levies a] license *fees or taxes* [tax] and which *are* [is] collected *by* or paid to the sinking fund.

(5) Any designations made by the commissioners [of the sinking fund of cities of the first class,] shall be entered of record in the minutes of the board and a certified copy thereof shall be transmitted to the *chief* judge of the *judicial district in which the city is located* [police court of the city], and he shall enter same of record and administer to each employe the oath required of peace officers.

Section 4. KRS 91.150 is amended to read as follows:

(1) The sinking fund shall be under the control and management of the commissioners [of the sinking fund], and shall be held and sacredly used for the payment of the principal and interest of the *general obligation* bonded debt of the city. The board of aldermen may not pass ordinances to diminish the assets of the sinking fund until all of the debts of the city chargeable to the sinking fund are paid, but may pass ordinances to increase the assets of the fund.

(2) The board of aldermen shall yearly determine and appropriate to the sinking fund an amount sufficient to meet the requirements of the sinking fund for the coming year based upon the estimate presented to the board by the commissioners [of the sinking fund]. The amount necessary to the sinking fund shall be met in full during the year for which it is appropriated.

(3) *License fees or taxes imposed by the board of aldermen for revenue purposes shall be collected by the commissioners. The proceeds from the taxes shall be paid to the secretary and treasurer of the sinking fund until income from all sources of the sinking fund is sufficient to pay the cost of administration and the interest charges for the current fiscal year of the sinking fund in addition to a sum sufficient to amortize the outstanding principal general obligation bonded indebtedness of the city on a yearly basis in accordance with regularly used amortization tables. Revenue remaining after meeting the foregoing requirements shall be transferred to the city. Such revenues shall be credited to the general fund of the city as received and may be expended for general purposes or for capital improvements. Ad valorem taxes for the benefit of the sinking fund shall not be levied unless the income of the sinking fund is otherwise insufficient to meet such requirements.* [The entire income of the fund shall each year be set apart and applied to the payment of the interest and principal of all debts charged or chargeable to the fund, and to the cost of administration of the fund, and to no other use or purpose until the whole of the debts of the city are fully paid and satisfied, including the present and any future indebtedness of the city].

(4) All *general obligation* bonds that constitute obligations of a city of the first class shall be made a charge upon the sinking fund [of the city], except that no bonds shall be made a charge upon the sinking fund

unless sufficient provision has been made, at the time of issuing the bonds or at the time of the charge, for the payment of interest and principal of the bonds. Bonds of the city made a charge upon the sinking fund shall be placed with and sold by the commissioners [of the sinking fund, except as otherwise provided by law].

(5) If any money or property of the sinking fund is injured, withheld or abstracted, the commissioners may sue for and recover the same or any part thereof, in their corporate name.

(6) Any stock owned by the city in the Louisville Water Company shall be a part of the resources of the sinking fund of the city.

Section 5. KRS 91.160 is amended to read as follows:

The commissioners [of the sinking fund] shall deposit the funds in their hands in a bank located or doing business in the city. The bank shall give bond with good and sufficient security, to be approved by the commissioners. No withdrawal shall be made from the sinking fund except upon the order of the treasurer and secretary, approved and certified by the president of the commissioners [of the sinking fund].

Section 6. KRS 91.170 is amended to read as follows:

The commissioners [of the sinking fund], whenever they consider it necessary and expedient, may borrow money to pay liabilities of the sinking fund that cannot be paid at maturity out of the current income of the sinking fund, but shall not at any time borrow a greater sum than in their judgment can be repaid out of the current income of the sinking fund during the year in which the money is borrowed. They may pledge the securities of the sinking fund to secure the repayment of money so borrowed.

Section 7. KRS 91.180 is amended to read as follows:

The commissioners [of the sinking fund] shall require monthly detailed statements from the treasurer and secretary as to the condition of the fund. On or after January 1 of each year the treasurer and secretary shall furnish to the board of aldermen a full, detailed statement of the fund and its receipts and disbursements for the preceding year.

HB 563, AN ACT relating to members of the police and fire departments in cities of the second and third classes and urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.450 is amended to read as follows:

(1) Except as provided in subsection (5) of this section no member of the police or fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section. *If the accused member desires to forego the hearing he may agree, in writing, to waive the hearing of charges and accept an administrative disciplinary decision from which there is no appeal.*

(2) Any person may prefer charges against a member of the police or fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges may thereupon be dismissed.

(3) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

(4) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the district court. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(5) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

(6) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two or more of those punishments, or by dismissal from the service.

The Committee on Elections and Constitutional Amendments reported **HB 356, HB 515, HB 549, HB 550,** and **HJR 52** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 356, AN ACT relating to political contributions from income taxes paid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) No political party to which funds are remitted under KRS 141.071 to 141.073 shall use such funds in support of any candidate in a primary election.

(2) Each political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account separate from any account in which other funds of the political party are maintained. All expenditures from such remitted funds shall be by check. A copy of each cancelled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the political party for a period of not less than four (4) years.

(3) The designated official of each political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each general election, forward to the registry of election finance a report of:

(a) the unexpended and unobligated balance of such remitted funds; and

(b) an itemized listing of each expenditure authorized, incurred or made from such remitted funds, indicating the amount, date and purpose of each expenditure, regardless of the amount, and the name, address and occupation of each person to whom an expenditure of fifty dollars ($50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The auditor of public accounts shall annually audit the accounts and records of receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 and shall report the results of each audit to the general assembly and the registry of election finance. In the course of such audits, the auditor or his authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the auditor any of the information required under this section.

Section 2. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report. *The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by Section 1 of this Act. Such separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.*

(2) Each campaign treasurer of a candidate or campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure.

(a) Reports of all candidates and their campaign committee shall be made:

1. On the thirty-second day preceding an election, including all previous contributions and expenditures.
2. On the twelfth day preceding the date of the election.
3. Within thirty (30) days after the election.
4. Candidates shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. When the net proceeds of a fund raising event exceed the sum of $1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement, and every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures. Subsequent supplemental statements shall be filed quarterly thereafter until the account shows an unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate does not have to file supplemental reports if the debt is the candidate's personal note.

(5) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(6) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then his obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. A candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

(7) No candidate as defined in this section, nor any committee which has been organized in whole or in part to further the candidacy of such person, shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person for any other public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member.

HB 515, AN ACT relating to political activities of members of city or county police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Uniformed employes of any city or county police or fire department, while off duty and out of uniform, shall be entitled to:

(a) Place political bumper stickers on their privately-owned vehicles;
(b) Wear political buttons;
(c) Contribute money to political parties, political candidates and political groups of their choice;
(d) Work at the polls on election days;
(e) Aid in registration or purgation of voters;
(f) Become members of political groups; and
(g) Hold office in political groups and carry out the mandates of that group.

(2) Uniformed employes of any city or county police or fire department shall have the right in their political activities to make it known that they are employed as a police officer or fire fighter.

Section 2. KRS 95.470 is amended to read as follows:

(1) No person shall be appointed a member of the police or fire department in cities of the second and third classes or urban-county governments on account of any political service, contribution, sentiment or affiliation. No member shall be dismissed, suspended or reduced in grade or pay for any political opinion.

(2) The appointment and continuance in office of members of the police or fire department shall depend solely upon their ability and willingness to enforce the law and comply with the rules of the department, and shall not be a reward for political activity or contribution to campaign funds.

[(3) No member of either department shall pay or collect any assessments made by political organizations, contribute to political campaign funds, be active in politics or work for the election of candidates for office.]

Section 3. KRS 95.762 is amended to read as follows:

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or fireman, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firemen. Every member of the police or fire department shall be a resident of the county prior to his appointment, and shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law-abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty-one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or fireman and is not over fifty-five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds [, nor shall any member of said department pay or collect any assessments made by political organizations, or contribute to political campaign funds, or be unduly active in politics or work for the election of candidates for office].

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.785 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firemen, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firemen, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

(5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than six (6) months, after which probationary period regular appointments shall be given to all probationary employes who are deemed to be satisfactory by the respective appointing authority.

HB 549, AN ACT relating to school board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.210 is amended to read as follows:

(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions as nearly equal in population [and containing integral voting precincts] insofar as is practicable *and containing contiguous voting precinct boundaries.* In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200, 160.220 to 160.250.

(3) No change shall be made in the boundary lines of the present division of the county school district until January 1, 1959, except in case of merger of districts or change in territory due to annexation. Any changes made in division boundary lines shall be such as will make divisions as nearly equal in population [and containing integral voting precincts] insofar as is *practicable and containing contiguous voting precincts* [practical]. No change may be made in division boundary lines more frequently than five (5) years after the last change in any division lines, except in case of merger of districts a change in territory *is* due to annexation. In counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 not withstanding, shall be four years and the election for the initial four year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter. [A record of all changes in division lines shall be kept in the office of the county board of education, and shall be published pursuant to KRS chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication. No change shall be made in the boundary of any division after January 1 prior to the date on which a member of the school board is to be elected from any division.]

(4) *Responsibility for the establishment or the changing of school board division boundaries shall be with the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.*

(5)(a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the state board of education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the superintendent of public instruction shall cause an investigation to determine the validity of the petition, said investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the state board of education, upon the recommendation of the superintendent of public instruction, shall order the local board of education to make such changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the state board of education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the state board of education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

HB 550, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.125 is amended to read as follows:

(1) The county board of elections may, upon information known to it or furnished to it by any citizen, delete from the county register the name of any voter who is no longer properly registered and notify the voter by mail of its action. *The voter must receive actual notice of the deletion of his name from the register.* If no protest is filed by the voter within thirty (30) days, his name shall be purged. If protest is filed, the county board shall hear the matter at its next regular monthly meeting and either retain or purge the voter's name. If any name is purged, the county board shall inform the state board of its action.

(2) If the name of any voter is purged from the county register as provided by subsection (1) at such time that the registration period is closed for a particular election, and if the voter contends that actual notice of the deletion of his name from the register was not received, such voter shall be allowed to vote as provided by KRS 117.245.

HJR 52, A JOINT RESOLUTION to withdraw the ratification by the Kentucky General Assembly of the proposed 27th Amendment to the Constitution of the United States, relative to equal rights for men and women, effective March 24, 1979.

WHEREAS, at the First Extraordinary Session of 1972, the General Assembly of the Commonwealth of Kentucky, by Joint Resolution, ratified an amendment to the Constitution of the United States proposed by House Joint Resolution 208 of the Ninety-second Congress (Second Session), proposing the 27th Amendment to the Constitution of the United States, relative to equal rights for men and women; and

WHEREAS, the said House Joint Resolution 208 specified a deadline of seven years for ratification of said proposed amendment to the Constitution of the United States by the legislatures of three-fourths of the several States; and

WHEREAS, a proposal is now before the Congress of the United States to extend the time for ratification of the said proposed 27th Amendment to the Constitution of the United States beyond the specified deadline of seven years, which expires March 23, 1979;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the ratification of the proposed 27th Amendment to the Constitution of the United States by the General Assembly of the Commonwealth of Kentucky, by way of House Joint Resolution 2 at the First Extraordinary Session of 1972, is withdrawn effective March 24, 1979, and the ratification of the proposed 27th Amendment to the Constitution of the United States will on this date be subject to reconsideration by the General Assembly of the Commonwealth of Kentucky.

Section 2. That copies of this resolution, duly certified by the Secretary of State of the Commonwealth of Kentucky, with the Great Seal of Kentucky attached thereto, be sent to the Administrator of General Services of the United States, Washington, D.C., to the President of the Senate and to the Speaker of the House of Representatives of the Congress of the United States. The Secretary of State of this Commonwealth shall also cause certified copies of this resolution to be sent to the Governor of each of the United States and to each House of each state legislature in the United States.

The Committee on Judiciary-Courts reported **HB 552** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 552, AN ACT relating to district judges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) district judges and shall have two (2) numbered divisions of the district court:

(1) First Judicial District.

(2) Second Judicial District.
(3) Third Judicial District.
(4) Eighth Judicial District.
(5) Ninth Judicial District.
(6) Eleventh Judicial District.
(7) Twelfth Judicial District.
(8) Thirteenth Judicial District.
(9) Fourteenth Judicial District.
(10) Eighteenth Judicial District.
(11) Twenty-first Judicial District.
(12) *Twenty-seventh Judicial District.*
(13) Twenty-eighth Judicial District.
(14) [(13)] Twenty-ninth Judicial District.
(15) [(14)] Thirty-second Judicial District.
(16) [(15)] Thirty-fifth Judicial District.
(17) [(16)] Thirty-eighth Judicial District.
(18) [(17)] Forty-sixth Judicial District.
(19) [(18)] Fifty-first Judicial District.
(20) [(19)] Fifty-third Judicial District.
(21) [(20)] Fifty-fourth Judicial District.
(22) [(21)] Fifty-sixth Judicial District.

The Committee on Judiciary-Statutes reported **HB 483** and **HB 498** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 483, AN ACT relating to limitations of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:
As used in this Act "professional services" means any service rendered in a profession required to be licensed, administered and regulated as professions in the Commonwealth of Kentucky, except those professions governed by KRS 413.140.

SECTION 2. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:
Notwithstanding any other prescribed limitation of actions which might otherwise appear applicable, except those provided in KRS 413.140, a civil action, whether brought in tort or contract, arising out of any act or omission in rendering, or failing to render, professional services for others shall be brought within one (1) year from the date of the occurrence or from the date when the cause of action was, or reasonably should have been, discovered by the party injured. Time shall not commence against a party under legal disability until removal of the disability.

HB 498, AN ACT relating child custody.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.270 is amended to read as follows:
(1) The court shall determine custody in accordance with the best interests of the child. The court shall consider all relevant factors including:
(a) The wishes of the child's parent or parents as to his custody;
(b) The wishes of the child as to his custodian;
(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;
(d) The child's adjustment to his home, school, and community; and
(e) The mental and physical health of all individuals involved.
(2) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. *The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.*

The Committee on Cities reported **HB 392,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 392, AN ACT relating to free public libraries in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 173.040 is amended to read as follows:

(1) As soon as practicable after the passage of the ordinance providing for a free public library, the mayor shall appoint twelve (12) trustees. The appointments shall be made for four (4) year terms except that the original appointees shall be so appointed that the terms of three (3) members shall expire each year. Each appointee must be, at the time of his appointment, a taxpayer and qualified voter in the city and must have resided therein for two (2) years prior to his appointment. *The mayor shall continue to appoint all twelve (12) trustees unless the county judge/executive becomes authorized to appoint trustees under the provisions of KRS 173.105, after which the mayor shall appoint only the trustee positions not appointed by the county judge/executive.* The trustees shall serve without compensation. The twelve (12) trustees, *whether appointed under this subsection or under KRS 173.105,* together with the mayor of the city, shall constitute the board of trustees of the free public library, and shall be a corporation with power to make such rules and regulations to govern itself and the property entrusted to its care as it deems proper.

(2) Vacancies in the office of trustee shall be reported by the board to the mayor, *if the vacancy occurs in a trustee position filled by appointment of the mayor, or to the county judge/executive if the vacancy occurs in a trustee position which the county judge/executive has authority to fill under KRS 173.105. The vacancy* [and] shall be filled *by the mayor if so authorized or the county judge/executive if so authorized under subsection (1) of this section and KRS 173.105, for the remainder of an unexpired term or for a full term if the vacancy results from the expiration of a term* [in the same manner as the original appointments]. The trustees shall, before entering upon the duties of office, make oath or affirmation before a judicial officer that they will discharge their duties.

(3) At its first meeting and each year thereafter, the board shall select members of the board to serve as president and vice-president, and it may choose other necessary officers and employes, fix their duties and compensation, and remove them at pleasure.

Section 2. KRS 173.105 is amended to read as follows:

(1) The fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class, may contract with the board of trustees of the free public library of any such city for the purpose of granting to the residents and schools of such county the same privileges afforded by such library to residents and schools in the city.

(2) If the fiscal court enters into a contract pursuant to subsection (1) of this section, then the county judge/executive shall have the authority to appoint one-half (1/2) of the positions on the board of trustees of the free public library. Appointments shall be made for four (4) year terms. Each appointee must be at the time of his appointment a taxpayer and qualified voter in the county.

(3) The county judge/executive shall make the appointments authorized by subsection (2) of this section upon the effective date of this Act in the following manner. He shall make all appointments to any existing board of trustees of a free public library when vacancies occur or terms of trustees expire until such time as he has appointed one-half (1/2) the members of the board of trustees and he shall continue to make the appointments to these positions when a vacancy occurs or a term expires, subject to subsection (4) of this section.

(4) If the contract between the fiscal court and a free public library terminates or ceases to be in effect, the county judge/executive shall no longer have the authority to appoint persons as trustees to the board of the free public library and when the terms of any trustee previously appointed by the county judge/executive expires, the mayor shall thereafter appoint persons to fill those positions on the board of trustees for the four (4) year term.

(5) The fiscal court may annually appropriate money out of the county treasury to the maintenance and support of the library.

(6) [(3)] Money so appropriated by the fiscal court may be expended by the board of trustees of the free public library in the establishment of branch stations in the county outside the city of the first class, under regulations of the board of trustees.

The Committee Substitute to HB **392** is as follows:

HB 392, AN ACT relating to free public libraries in cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 173.040 is amended to read as follows:

(1) As soon as practicable after the passage of the ordinance providing for a free public library, the mayor shall appoint twelve (12) trustees. The appointments shall be made for four (4) year terms except that the original appointees shall be so appointed that the terms of three (3) members shall expire each year. Each appointee must be, at the time of his appointment, a taxpayer and qualified voter in the city and must have resided therein for two (2) years prior to his appointment. *The mayor shall continue to appoint all twelve (12) trustees unless the county judge/executive becomes authorized to appoint trustees under the provisions of KRS 173.105, after which the mayor shall appoint only the trustee positions not appointed by the county judge/executive.* The trustees shall serve without compensation. The twelve (12) trustees, *whether appointed under this subsection or under KRS 173.105,* together with the mayor of the city, shall constitute the board of trustees of the free public library, and shall be a corporation with power to make such rules and regulations to govern itself and the property entrusted to its care as it deems proper.

(2) Vacancies in the office of trustee shall be reported by the board to the mayor, *if the vacancy occurs in a trustee position filled by appointment of the mayor, or to the county judge/executive if the vacancy occurs in a trustee position which the county judge/executive has authority to fill under KRS 173.105. The vacancy* [and] shall be filled *by the mayor if so authorized or the county judge/executive if so authorized under subsection (1) of this section and KRS 173.105, for the remainder of an unexpired term or for a full term if the vacancy results from the expiration of a term* [in the same manner as the original appointments]. The trustees shall, before entering upon the duties of office, make oath or affirmation before a judicial officer that they will discharge their duties. *The mayor or the county judge/executive may terminate the appointments of persons he has appointed as trustees, and appoint other persons to fill the unexpired terms.*

(3) At its first meeting and each year thereafter, the board shall select members of the board to serve as president and vice-president, and it may choose other necessary officers and employes, fix their duties and compensation, and remove them at pleasure.

Section 2. KRS 173.105 is amended to read as follows:

(1) The fiscal court of any county containing a population of over two hundred thousand (200,000) and a city of the first class, may contract with the board of trustees of the free public library of any such city for the purpose of granting to the residents and schools of such county the same privileges afforded by such library to residents and schools in the city.

(2) If the fiscal court enters into a contract pursuant to subsection (1) of this section, then the county judge/executive shall have the authority to appoint one-half (1/2) of the positions on the board of trustees of the free public library. Appointments shall be made for four (4) year terms. Each appointee must be at the time of his appointment a taxpayer and qualified voter in the county.

(3) The county judge/executive shall make the appointments authorized by subsection (2) of this section in the following manner. On March 31 of 1978 and March 31 of 1980, he shall appoint persons to fill two of the vacancies which occur. On March 31 of 1979 and March 31 of 1981, he shall appoint a person to fill one vacancy which occurs. He shall continue to make the appointments to these positions when a vacancy occurs or a term expires, subject to subsection (4) of this section.

(4) If the contract between the fiscal court and a free public library terminates or ceases to be in effect, the county judge/executive shall no longer have the authority to appoint persons as trustees to the board of the free public library and the mayor may terminate the appointment of trustees appointed by the county judge/executive and appoint persons to fill their unexpired terms.

(5) The fiscal court may annually appropriate money out of the county treasury to the maintenance and support of the library.

(6) [(3)] Money so appropriated by the fiscal court may be expended by the board of trustees of the free public library in the establishment of branch stations in the county outside the city of the first class, under regulations of the board of trustees.

Section 3. Whereas, under the conditions of this Act, the county judge/executive will have to appoint library board members by March 31, 1978, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Labor and Industry reported **HB 438** and **HB 551** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 438, AN ACT relating to foreclosure of loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All financial institutions which foreclose on a loan shall notify the local office of the department for human resources, or, if there is no such local office, the local public assistance office, or, if there is no such local office, the state department for human resources of the foreclosure at least 10 days prior to foreclosure and the time and place of any sale of the property if the financial institution has knowledge or reason to believe that the person in default is a public assistance recipient, recipient of social security benefits, recipient of supplemental security income program benefits, or is unable to understand the notice of foreclosure.

(2) The office notified pursuant to subsection (1) of this section shall investigate and provide counsel to the person in default.

HB 551, AN ACT relating to prevailing wages for construction of public works.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of labor; and

(b) "Department" means department of labor.

(2) As used in KRS 337.275 to 337.325, 337.340, 337.345, and 337.385 to 337.405 unless the context requires otherwise:

(a) "Wages" include any compensation due to an employe by reason of his employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such allowances made in this chapter;

(b) "Employer" is any person who employs an employe and includes any person acting directly or indirectly in the interest of an employer in relation to an employe; and

(c) "Employe" is any person employed by or suffered or permitted to work for an employer, but shall not include:

(i) Any individual employed in agriculture;

(ii) Any individual employed in a bona fide executive, administrative, supervisory or professional capacity, or in the capacity of outside salesman, or as an outside collector as such terms are defined by administrative regulations of the commissioner;

(iii) Any individual employed by the United States;

(iv) Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one domestic servant regularly employed;

(v) Any individual classified and given a certificate by the commissioner of labor showing a status of learner, apprentice, handicapped worker, sheltered work-shop employe, and student under administrative procedures and administrative regulations as prescribed and promulgated by the commissioner of labor. This certificate shall authorize employment at such wages, less than the established fixed minimum fair wage rates, and for such period of time as shall be fixed by the commissioner and stated in the certificate issued to such person;

(vi) Employes of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employe is the parent, spouse, child, or other member of his employer's immediate family;

(vii) Any individual employed as a babysitter in employer's home, or live-in companion to a sick, convalescing or elderly person whose principal duties do not include housekeeping;

(viii) Any individual engaged in the delivery of newspapers to the consumer.

(d) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(e) "Gratuity" means voluntary monetary contribution received by an employe from a guest, patron or customer for services rendered;

(f) "Tipped employe" means any employe engaged in an occupation in which he customarily and regularly receives more than $20.00 per month in tips;

(g) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550 unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration or repair of any public works by contract fairly estimated to cost more than $500;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employes of such contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c)1. "Locality" shall be determined by the commissioner of labor. He may designate more than one county as a single locality but, if more than one county is designated, such multi-county locality shall not extend beyond the boundaries of the federal congressional district in which that county is located. In no event shall he designate less than an entire county as a locality.

2. "Locality" with respect to contracts advertised or awarded by the department of transportation of this state shall be determined by the secretary of transportation. He may designate any number of counties as constituting a single locality. He may also designate all counties of the commonwealth as a single locality, but, in no event, shall he designate less than an entire county as a locality.

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works [;] and *any non-profit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public building facilities, including but not limited to the types of entities funded through revenue bonds; and*

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks and all other structures or work constructed under contract with any public authority.

(4) In any case where the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of such public works and where KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail.

The Committee on State Government reported **HB 188, HB 313** with Committee Amendment attached thereto, **HB 405** with Committee Amendments attached thereto, **HB 416** with Committee Amendment attached thereto, **HB 527, HB 462** with Committee Substitute attached thereto, **HB 496, HCR 56,** and **SB 35** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 188, AN ACT relating to disaster and emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.400 is amended to read as follows:

In order to minimize the destructiveness resulting from fire, flood, tornado, other natural or man caused disasters, riot, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies or other causes, and the threatened or impending happening of any of the above, and in order to insure that preparations and response for this state will be adequate to deal with disaster or emergencies or the threat of same and in order to preserve life and property of the people of this state and to protect the public peace, health and safety, it is hereby found and declared to be necessary:

(1) To create a division of disaster and emergency services and to authorize the creation of *county or areawide* [local] organizations for emergency *planning or* response in [the counties and cities of] the state;

(2) To confer upon the governor and the chief executive officers of the counties and cities of the state the emergency powers provided herein;

(3) To provide for the rendering of mutual aid among the *areawide organizations and the* counties [and cities] of the state, and with other states and with the federal government with respect to the performance of emergency response functions; and

(4) To authorize the establishment of such organizations and the taking of such steps as are necessary and appropriate to carry out the provisions of this chapter.

Section 2. KRS 39.401 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Disaster and emergency response" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from fire, flood, tornado, other natural or man caused disasters, riot, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies or other causes, and the threatened or impending happening of any of the above, and in order to insure that preparations and response for this state will be adequate to deal with disaster or emergencies or the threat of same. These functions include, without limitation, fire fighting services, police services, medical and health services, ambulance service, rescue, search and rescue, engineering, warning services, communications, radiological, chemical and other monitoring, decontamination and neutralization, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, plant protection, temporary restoration of public utility services, and other functions related to effective reaction to a disaster or emergency situation, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions;

(2) "Declared emergency" means any incident or situation declared as such by executive order of the governor pursuant to the provisions of this chapter.

(3) "Civil defense agency" means the department of military affairs.

(4) "Director" means the adjutant general of the commonwealth of Kentucky.

(5) "Division" means the division of disaster and emergency services of the department of military affairs.

(6) "Disaster" means any incident or situation declared as such by executive order of the governor pursuant to the provisions of this chapter or by the president of the United States pursuant to federal law.

(7) "Areawide organization" means an area development district, or a functional committee thereof, as provided in KRS Chapter 147A.

Section 3. KRS 39.407 is amended to read as follows:

In performing his duties under this chapter, the adjutant general, with approval of the governor, is authorized and empowered:

(1) To prepare a comprehensive plan and program for the disaster and emergency response of this state, such plan and program to be integrated into and coordinated with the disaster and emergency response plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for disaster and emergency response by the *areawide organizations, metropolitan governments,* counties and cities of this state, such plans to be integrated into and coordinated with the disaster and emergency response plan and program of this state to the fullest possible extent;

(2) In accordance with such plan and program for the disaster and emergency response of this state, to ascertain the requirements of the state and of the counties and cities thereof for food or clothing or other necessities of life in the event of disaster or attack and to plan for and procure supplies, medicines, materials, and equipment, and to use and employ from time to time any of the property, services, and resources within the state, for the purposes set forth in this chapter; to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of disaster and emergency response organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of disaster and emergency response personnel in time of need;

(3) To cooperate with the president of the United States, the chiefs of the armed forces, and the civil preparedness agency of the United States, and officers and agencies of other states in matters pertaining to the disaster and emergency response of the state and nation and the incidents thereof; and in connection therewith, to take any measures which he may deem proper to carry into effect any request of the president and the appropriate federal officers and agencies, for any action looking to civil preparedness, including the direction or control of blackouts and practice blackouts, mobilization of disaster and emergency response forces, and other tests and exercises, warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith, the effective screening or extinguishing of all lights and lighting devices and appliances, the shutting off of water mains, gas mains, electric power connections and the suspension of all other utility services, the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior and subsequent to drills or attack, public meetings or gatherings and the evacuation and reception of the civilian population;

(4) To take such action and give such directions to state and local law enforcement officers and agencies as may be reasonable and necessary for the purpose of securing compliance with the provisions of this chapter, and with the orders, rules, and regulations made pursuant thereto;

(5) To employ such measures and give such directions to the state or local boards of health as may be reasonably necessary for the purpose of securing compliance with the provisions of this chapter, or with the findings or recommendations of such boards of health by reason of conditions arising from disasters,

emergency situations, enemy attack or the threat thereof or otherwise;

(6) To utilize the services and facilities of existing officers and agencies of the state and of the political subdivisions thereof; and all such officers and agencies shall cooperate with and extend their services and facilities to the director as he may request;

(7) To establish agencies and offices and to appoint executive, technical, clerical, and other personnel as may be necessary to carry out the provisions of this chapter;

(8) To delegate any authority vested in him under this chapter, and to provide for the subdelegation of any such authority;

(9) On behalf of this state, pursuant to executive order of the governor or Act of the general assembly, to enter into reciprocal aid agreements or compacts with other states and the federal government, either on a statewide basis or local county or city basis or with a neighboring state or province of a foreign country. Such mutual aid agreements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies, engineering services, emergency housing, police services, national or state guards while under the control of the state, health, medical, and related services, fire fighting, rescue, transportation, and construction services and equipment, personnel necessary to provide or conduct these services, and such other supplies, equipment, facilities, personnel, and services as may be needed, the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units, and on such terms and conditions as are deemed necessary;

(10) To sponsor and develop mutual aid plans and agreements among the *areawide organizations, metropolitan governments,* counties and cities of the state, similar to the mutual aid arrangements with other states referred to above.

(11) To recommend to the state planning committee the allocation of such funds as may be necessary to the department for local government to be distributed to the area development districts for the development of emergency response plans and programs for the local governments and the area served by the area development districts, or a functional committee thereof.

Section 4. KRS 39.414 is amended to read as follows:

(1) The director of each local *or areawide* organization for disaster and emergency response may develop or cause to be developed mutual aid arrangements with other public and private agencies within this state for reciprocal disaster and emergency response aid and assistance in case of disaster or other emergency too great to be dealt with unassisted. Counties and cities may confer or authorize the conferring upon members of the auxiliary police the powers of peace officers, subject to such restrictions as shall be imposed. Such arrangements shall be consistent with the state *or areawide* disaster and emergency response plan and program, and in time of emergency it shall be the duty of each local *or areawide* organization for disaster and emergency response to render assistance in accordance with the provisions of such mutual aid arrangements.

(2) The director of each local *or areawide* organization for disaster and emergency response may assist in negotiation of reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states or provinces) or political subdivisions thereof, and shall carry out arrangements or any such agreement relating to the local and political subdivision.

Section 5. KRS 39.415 is amended to read as follows:

(1) Each county, *urban-county or* metropolitan government, or city *of the first class* of this state shall establish a local organization for disaster and emergency response plan and program. The county judge/executive of each county and the chief executive of each city or *urban-county or metropolitan government* [governing body] thereof shall appoint a director who shall have direct responsibility for the organization, administration and operation of such local organization for disaster and emergency response, subject to the direction and control of such appointing officer [or governing body]. *The mayor of a city of the first class may appoint a director or by joint agreement provide for direction by the director named by the county judge/executive* [Each local organization for disaster and emergency response functions within the territorial limits of the county or city within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of this chapter].

(2) Counties, *urban-county or* metropolitan governments, and cities *of the first class* may, in lieu of providing separate disaster and emergency response *plans or* programs, join in *an areawide plan or* [a cooperative or interjurisdictional] program provided such program:

(a) Meets the criteria of the state disaster and emergency response plan; and

(b) Is consummated pursuant to *KRS Chapter 147A or* the inter-local cooperation act; and

(c) Is provided with sufficient manpower, equipment, and funding by each contracting party *or the state planning committee* so as to assure high quality *planning and* service to all of the parties.

(3) All local, regional or multijurisdictional organizations for disaster and emergency response shall comply with all applicable portions of the state disaster and emergency response plan.

(4) All local, regional or multijurisdictional organizations for disaster and emergency response, and the directors and members of each, shall, for all purposes, be under the direction and jurisdiction of the director of the division and of the governor whenever the latter shall deem such action necessary.

HB 313, AN ACT relating to payment of a bonus to certain veterans who served during the Viet Nam conflict and certain persons deriving from them, providing for funding thereof, and appropriating funds for administration.

WHEREAS, the electorate of the Commonwealth of Kentucky, at the regular election on November 3, 1959, approved the payment of a cash bonus to qualified veterans of the Spanish American War, World War I, World War II, and the Korean conflict as an expression of appreciation for their service to the United States of America; and

WHEREAS, many citizens of the Commonwealth served at great personal sacrifice in the armed forces of the United States during the Viet Nam conflict; and

WHEREAS, the General Assembly of the Commonwealth of Kentucky finds it appropriate to express to those citizens the gratitude of all of the citizens of the Commonwealth by the payment of a bonus to all veterans qualified hereunder who served in the armed forces of the United States in the Viet Nam conflict;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

A bonus shall be paid by the Commonwealth of Kentucky in the amounts and to the persons determined in accordance with the provisions of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Center" means the Kentucky center for veterans' affairs;

(2) "Administrator" means the manager of the Kentucky center for veterans' affairs;

(3) "Armed forces" means the United States Army, Navy, Marine Corps, Air Force and Coast Guard, including the reserve components thereof on active duty, and shall not include the merchant marine;

(4) "Viet Nam veteran" means any person who served in the armed forces of the United States for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial), who has been released, separated or discharged from the armed forces under honorable conditions, and who was on active duty with the armed forces in Southeast Asia for any period between August 5, 1964 and August 28, 1973;

(5) "Qualified Viet Nam veteran" means a Viet Nam veteran who:

(a) Was a resident of the Commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto;

(b) Served at least ninety (90) days active duty, unless the duty was earlier terminated for medical reasons determined to be service-connected by the armed forces or the veterans' administration;

(c) Has served during the period of eligibility as evidenced by separation papers or discharge from the United States armed forces;

(d) Was entitled to either the armed forces expeditionary medal or the Viet Nam service medal; and

(e) If living, was a resident of the Commonwealth on December 31, 1977; or if deceased at that time, was survived by a beneficiary who was a resident of the Commonwealth on December 31, 1977, and

Provided further, that if the legal spouse of a qualified veteran was a legal resident of Kentucky on December 31, 1977, or if the qualified veteran was unmarried, his surviving mother or father were legal residents of Kentucky on December 31, 1977, such shall constitute a rebuttable presumption that the veteran lived in Kentucky on that date.

(6) "Resident of the Commonwealth at the time of entry into the active service" means any person who gave the Commonwealth of Kentucky, or any specific place in this Commonwealth, as his place of residence at such time of entry. Conclusive and exclusive evidence of such giving of place of residence shall be the official records on file in the department of defense of the United States, or any official record thereof in the files of the veterans' administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(7) "Resident", in any context other than as in subsection (6) of this section, means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to

such regulations as the administrator may promulgate; except that those applicants who reside in an incorporated town part of which lies in Kentucky will be presumed to have a legal residence in Kentucky;

(8) "Beneficiary" means in this order, widow, child or children (sharing equally), mother, father, and no other;

(9)(a) "Widow" means a woman who was the wife of a Viet Nam veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female Viet Nam veteran at the time of her death;

(10) "Child" means a person:

(a) Who is under the age of eighteen; or

(b) Who, before attaining the age of eighteen years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen years and until completion of education or training (but not after attaining the age of twenty-one years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a legitimate child; a legally adopted child; a step-child who is a member of a Viet Nam veteran's household or was a member at the time of the veteran's death; or an illegitimate child, but, as to the alleged father, only if acknowledged in writing signed by him or if he had, before his death, been judicially decreed to be the father of such child;

(11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one year stood in the relationship of a mother to a qualified Viet Nam veteran before his or her entry into active service in the armed forces, or if two persons stood in such relationship for one year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(12) "Father" means a father, a father through adoption, or a man who for a period of not less than one year stood in the relationship of a father to a qualified Viet Nam veteran before his or her entry into active service in the armed forces, or if two persons stood in such relationship for one year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(13) "In the Continental United States" means any place in the District of Columbia and the States of the United States which are on the North American Continent, exclusive of Alaska;

(14) "Outside the Continental United States" means any place elsewhere than as defined in subsection (13) of this section;

(15) "Bonus" and "Viet Nam veteran's bonus" mean the compensation authorized by this Act;

(16) "Bonus claim" means a claim or potential claim for a Viet Nam veteran's bonus; and

(17) "Claimant" means one who seeks to obtain payment of a bonus claim.

SECTION 3. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No bonus shall be paid to any member of the armed forces of the United States who did only civilian work at civilian pay, who has received from another state a bonus or compensation of a like nature as is provided by this Act, or who received the Kentucky veterans' bonus under the provisions of Chapter 48, Acts of the Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Every person determined by the administrator to be a qualified Viet Nam veteran shall be paid the sum of nine dollars ($9.00) for each month and major fraction of a month of active duty, in the armed forces in the Continental United States, not to exceed in all the sum of three hundred dollars ($300.00); and the sum of fifteen dollars ($15.00) for each month and major fraction of a month of such service outside the Continental United States, subject to an aggregate limit for all service in the sum of five hundred dollars ($500.00).

(2) If a person determined to have been a qualified Viet Nam veteran shall be deceased at the time payment of the bonus would otherwise be made to him, the amount of his bonus shall be paid to the first surviving beneficiary, if any, according to the order of priority defined in Section 2(8) of this Act and if there be no surviving beneficiary, the bonus of such veteran shall lapse, and no payment thereof shall be made.

(3) A beneficiary (as defined in Section 2, subsections (8), (9), (10), (11), and (12) of this Act) of a person killed in the line of duty while serving in the armed forces of the United States in Southeast Asia during the period of eligibility, or who died of service-connected injury sustained while so serving, and who would otherwise have qualified for the bonus provided in Section 4, subsection (1) of this Act, shall be paid three hundred dollars ($300.00) if no part of the total service during the period was served outside the Continental United States or five hundred dollars ($500.00) if any part of the total service during the period was served outside the Continental United States. The provisions of Section 4(1) of this Act and the minimum

period of service for entitlement to a bonus as established by Section 2(4) of this Act shall not apply to these beneficiaries. However, this exception does not waive the respective maximums of three hundred dollars ($300.00) or five hundred dollars ($500.00) for each veteran, person killed in the line of duty while on active duty in the armed forces, or person who died as a result of service-connected injury sustained while on active duty in the armed forces. Payment shall be made to a beneficiary in the order of priority defined in Section 2, subsection (7) of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The center for veterans' affairs shall administer the provisions of this Act and shall:

(1) Prepare and make available forms on which applications for the bonus shall be made;

(2) Employ such additional personnel as may be required for orderly and expeditious administration;

(3) Promulgate all rules and regulations required for the effective administration of this Act; and

(4) Report annually to the governor and the legislative research commission within sixty (60) days after the end of each fiscal year during its administration of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

All applications for the bonus shall be submitted to the administrator, in writing, upon forms made available by the center, and shall be accompanied by such documentary evidence as the center may by regulation prescribe. Every application shall be certified under the penalties of perjury, and shall contain representations of the claimant (or, if he shall have been adjudged incompetent, or be an infant, of his committee or guardian), that:

(1) The facts therein stated are true to the best of his knowledge and belief;

(2) All documents submitted in support of the application are believed by the claimant to be genuine originals or copies, as the case may be, and that the claimant has no knowledge that the document has been superseded or cancelled;

(3) The claimant has not received from another state a bonus or compensation of a life nature as provided by this Act;

(4) The claimant has not received the Kentucky veterans' bonus provided under Chapter 48, Acts of the Regular 1958 Session of the General Assembly, and Chapter 15, Acts of the Regular 1960 Session of the General Assembly;

(5) The claimant has neither paid nor agreed to pay, directly or indirectly, any compensation for assistance received in preparing and tendering the application; and

(6) The claimant has knowledge of the final and forfeiture provisions of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) No application shall be filed with or sent to the administrator before the 1st day of September, 1978.

(2) No application may be filed with or sent to the administrator after the thirty-first day of March, 1980; but if an application be sent by mail, the administrator shall receive it if the post-mark on the envelope shows date and time of mailing at or before midnight, central standard time, on or before the thirty-first day of March, 1980.

(3) Applications tendered to the administrator otherwise than as provided in (1) and (2) above shall not be eligible for consideration under this Act and shall not be accepted. Each such application received by mail shall be returned to the sender, if a return address be given, together with notification of the reason for its return.

SECTION 8. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

No claimant shall be entitled to an oral hearing as a matter of right; but the administrator may in his discretion order a hearing in any case presenting unusual circumstances, or where it appears that documentary evidence of any material fact cannot reasonably be obtained, or where the claim cannot otherwise adequately be determined. The administrator may investigate any matter which in his judgment is not adequately proven, or which shows or raises an inference of fraud; and may require submission of supplementary proof.

SECTION 9. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

A hearing ordered by the administrator shall be conducted by a single person designated by the administrator. Formalities of judicial procedure and proof may be waived. No stenographic transcript of the proceedings shall be made except when specifically authorized by the administrator, and in the absence of such authorization the hearing officer shall submit to the administrator his written summary of the proceedings. There shall be no right to written or oral argument; but the administrator may, in his discretion, authorize either.

SECTION 10. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The burden of proving to the satisfaction of the administrator that a bonus is payable shall in all cases be upon the claimant.

SECTION 11. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

The administrator shall make prompt determination that each application is approved or disapproved for payment of a bonus; and if approved, shall determine the amount to be paid according to the provisions of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is disapproved, the administrator shall send a notice of such decision to the claimant by mail at the address shown in the application. The notice shall be in such form as the administrator may determine, shall contain a designation of the reason for disapproval, shall inform the claimant of his right to seek review, shall have attached such form of request for review as the administrator may prescribe, and shall give information as to procedure for review.

(2) Application for review of the administrator's disapproval shall be made only on the forms prescribed and furnished by the administrator; and shall be received in the office of the administrator by the closing hour in the thirtieth (30th) day after the day upon which the notice of the disapproval is mailed by the administrator, or be forever barred.

(3) Upon receiving an application for review, the administrator shall transmit the same, together with the original application and all papers in the case, to the board of review, hereinafter created.

(4) The board or review shall promptly consider the same evidence which was available to the administrator, and shall promptly enter in the case file its decision either finally affirming the administrator's decision, or finally determining the claim and the amount thereof.

(5) The board of review shall send a notice of its decision to the claimant by registered mail, and shall return the case file to the administrator. The decision of the board of review shall be a final determination of the claim shown in the application.

SECTION 13. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

If the administrator shall disapprove any claim, or if the decision of the board of review be affirmance of the administrator's disapproval of the claim,

(1) No payment of a bonus shall be made,

(2) The administrator, upon receiving advice of the decision, shall note the same in a permanent book or record in his office; shall forthwith return to the claimant the copies of any official records submitted in support of the application; shall finally close the claim file; and may destroy all other papers except the application.

SECTION 14. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) If a claim is approved by the administrator or finally approved upon resort to the board of review, the administrator shall promptly certify to the secretary for finance and administration the names and addresses of persons found entitled to be paid, as shown in the application, and the amount payable to each.

(a) A copy of each such certificate shall be sent to the commissioner of revenue, who shall promptly ascertain from the records of his department whether any person proposed to be paid a bonus is delinquent in the payment of any tax liability to the Commonwealth. No delinquency shall be deemed to exist as to any asserted tax liability which is the subject of a bona fide dispute. If any delinquency be found to exist, the commissioner of revenue shall within three working days after this receipt of the certificate, furnish the details thereof to the secretary for finance and administration; and if no advice of tax delinquency is received by the secretary before the end of the fourth working day after his receipt of certification from the administrator, he shall, for the purposes of this Act, conclusively presume that no delinquency of tax liability to the Commonwealth exists, but such presumption shall apply only to the existence or absence of a set-off by the Commonwealth against a certified claim for a bonus, and shall not alter the facts as between the Commonwealth and any taxpayer.

(b) If no advice of tax delinquency is received within such allowed time, the secretary for finance and administration may approve payment in accordance with the certificate of the administrator, and may immediately draw a warrant on the state treasury for a check in payment.

(c) Upon receipt of such warrant the state treasurer shall issue a check in accordance therewith payable from funds made available in accordance with this Act, and the same shall promptly be mailed to the payee thereof at the address shown in the certificate.

(2) If the secretary for finance and administration shall, within the allowed time, receive advice from the commissioner of revenue of the existence of a delinquency on the part of any person having an approved claim for a bonus, as to any tax liability to the Commonwealth, the secretary shall note the same on the certificate

of the administrator, withhold payment, and forthwith send to the claimant by registered mail a notice of the asserted delinquency, and the amount thereof, and that it is proposed that the same be set off against the bonus payment.

(a) If the secretary for finance and administration receives no protest in his office within ten working days after recording such notice, he shall conclusively presume that the proposed set off is just, shall apply the amount thereof in reduction or extinguishment of the payment certified by the administrator, and shall advise the commissioner of revenue of the amount set off against the bonus, which advice shall be noted by the commissioner of revenue on the records of his office as a credit upon the delinquent tax liability.

(b) If the tax set-off does not consume the entire amount of the bonus as certified by the administrator, the commissioner shall draw a warrant upon the state treasury for a check in the amount of the remainder, and upon receiving such check from the state treasurer shall send the same, together with advice of the set-off, by mail, to the payee at the address shown in the certificate of the director.

(3) If the secretary for finance and administration receives from the claimant a protest of the asserted tax delinquency, within the allowed time, the secretary shall withhold approval for payment, and shall refer the protest to the commissioner of revenue for disposition.

(4) If a tax set-off is made, and the claimant shall assert error with regard thereto, the exclusive remedy shall be by seeking refund from the commissioner of revenue.

SECTION 15. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) Claims for payment of a bonus shall not be assignable before or after approval thereof; and any attempted or purported assignment received by or tendered to any officer of the Commonwealth shall be void, need not be acknowledged or returned, and may be disregarded.

(2) Payments of the bonus shall be exempt from all taxation by the Commonwealth, its political subdivisions and taxing districts.

(3) No claim for payment of a bonus and no payment made by the Commonwealth under this Act shall give rise to a cause of action against the Commonwealth or any of its officers, agents, or employes, and no claim for payment shall be subject to attachment, levy, garnishment or seizure by or under any legal or equitable process whatever; but this provision shall not extend exemption from legal process to the proceeds of any bonus payment after the same has been received from the Commonwealth.

(4) The Commonwealth does not consent to be sued in any court with regard to any matter connected with or arising out of claims for payment of the bonus herein authorized.

SECTION 16. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Viet Nam Veterans' Bonus Board of Review." The governor shall designate a chairman and a secretary from among the membership.

(2) Three members and no more shall constitute a board of review, and shall by concurrence of two members decide any claim which comes before the board in the manner provided in this Act. The chairman of the board shall designate three members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated twenty-five dollars ($25.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eight cents per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three members designated for that purpose. In every case the board shall either (a) affirm the decision of the administrator, or (b) determine that a veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made shall be signed by at least two of the three members designated to decide the claim; and upon concurrence of two members a decision shall be final and not subject to reconsideration.

(5) When, after April 1, 1980, the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the governor in writing. The governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

SECTION 17. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person who charges or collects or attempts to charge or collect either directly or indirectly, any fee or other compensation for assisting in any manner a person seeking to obtain payment of a bonus under this Act, shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine of not more than five hundred dollars ($500) or imprisonment for a term of not more than six (6) months, or both; but this provision is not intended to prohibit:

(1) Collection by public officers of statutory fees for providing authenticated copies of public records, or

(2) The giving of assistance or advice to claimants by any bona fide veteran's organization, civic organization, institution, public or private body, or person, through one or more persons compensated from the funds of such organization, institution, or public or private body or person, if no fee or charge therefor is collected from the asserted claimant.

SECTION 18. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Whoever makes any false or fraudulent statement of a material fact in any application, affidavit, certificate or document submitted or tendered for the purpose of obtaining payment of a bonus under this Act, shall be guilty of a felony and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned for a term of not more than two (2) years, or both.

SECTION 19. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person conspiring to obtain payment of a fraudulent claim for a bonus under this Act, or conspiring to defraud one who receives payment or has a bona fide claim for payment of a bonus, shall be guilty of a felony, and upon conviction thereof, shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than two (2) years, or both.

SECTION 20. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Any person convicted of any offense denounced in Sections 16, 17, and 18 of this Act shall forfeit his or her right, if any, to receive any payment authorized by this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

Funds required for payment of the bonus authorized by this Act shall be deemed a necessary governmental expense and paid by the state treasurer upon approval of the executive department for finance and administration.

Section 22. There is hereby appropriated to the center for veterans' affairs, department for human resources, for fiscal year 1978-79, the sum of $350,000 (three hundred and fifty thousand dollars) for use in the administration of this Act. The appropriated funds shall be paid from the general fund; any unexpended funds shall not lapse but shall be carried forward into fiscal year 1979-80.

The Committee Amendment to **HB 313** is as follows:

Amend printed copy of **HB 313,** page 2, line 18, by inserting "era" after "Nam" and before "veteran"; and on

page 2, line 25, by deleting the words "in Southeast Asia"; and on

page 3, line 1, by inserting "era" after "Nam" and before "veteran"; and on

page 3, line 12, by inserting "and" after the semicolon; and on

page 3, by deleting lines 13 and 14; and on

page 3, line 15, by changing "(e)" to "(d)"; and on

page 6, line 25, by inserting "era" after "Nam" and before "veteran's"; and on

page 7, line 2, by inserting "era" after "Nam" and before "veteran"; and on

page 7, line 18, by inserting "era" after "Nam" and before "veteran"; and on

page 8, line 2, by inserting "era" after "Nam" and before "veteran"; and on page 8, line 12, by deleting the words "in Southeast Asia"; and on

page 19, lines 17 and 18, by changing "twenty-five dollars ($25.00)" to "fifty dollars ($50.00)"; and on

page 19, line 24, by changing "eight" to "sixteen".

HB 405, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.110 is amended to read as follows:

As used in KRS 18.110 to 18.360, unless the context indicates otherwise:

(1) "Appointing officer" means the officer or employe or group of officers or employes authorized by law to make appointments;

(2) "Board" means the personnel board created by KRS 18.160;

(3) "Certification" means the referral of the name of one or more qualified prospective employes by the commissioner of personnel on request of an appointing officer for consideration in filling a position in the classified service;

(4) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(5) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18.140; a "classified position" is a position in the classified service;

(6) "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility;

(7) "Department" means the department of personnel provided for in KRS 18.160 unless the context indicates otherwise;

(8) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18.110 to 18.360 and who has qualified to be placed on a register;

(9) "Emergency employe" means an employe appointed without regard to the examination requirements of KRS 18.110 to 18.360 to any position by reason of a governmental emergency whose appointment is not to exceed thirty (30) working days in duration and is nonrenewable;

(10) "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(11) "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(12) "Probation" means the period of service following appointment to any position under KRS 18.110 to 18.360 which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in KRS 18.210. An employe serving the probationary period is known as a "probationary employe";

(13) "Promotion" means a change of rank of an employe from a position of one (1) class to a position of another class having a higher minimum salary and carrying a greater scope of discretion or responsibility;

(14) "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under KRS 18.110 to 18.360 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18.210;

(15) "Re-employment list" means the separate list of names of persons reduced in force by reason of lack of appropriations, curtailment of program or abolishment of position or of organizational unit, and through no fault of their own, who have requested the opportunity for further consideration of state employment. Re-employment lists are used as provided in KRS 18.210;

(16) "Register" means any official list of eligibles for a particular class placed in rank order according to the examination records, maintained for use in making original appointments or promotions to positions in the classified service;

(17) "Status" means the acquisition of tenure with all rights and privileges appertaining thereunto after satisfactory completion of the probationary period by an employe in the classified service;

(18) A "temporary position" is one created for a defined period of time not to exceed six (6) months and not renewable; a "temporary employe" is one (1) appointed to such a temporary position. A "seasonal position," although temporary in duration in the foregoing sense, coincides in duration with a particular season

or seasons of the year, *but may not exceed nine (9) months duration,* and may recur regularly from year to year; a "seasonal employe" is one (1) appointed to such a seasonal position from an existing eligible list or without reference to an eligible list;

(19) A "federally funded time-limited position" is one created for the specific purpose of providing public service employment *or one-time special or research project services* for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided. A "federally funded time-limited" employe is one appointed to such position and, except as provided in KRS 18.140, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in KRS 18.110 to 18.360;

(20) "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service;

(21) A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between April 28, 1952, and July 1, 1955.

Section 2. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of [state planning, and the office of] the secretary of the governor's cabinet, *and the office of program administration;*

(e) *Cabinet secretaries, department heads, bureau commissioners and the administrative heads of all boards and commissions* [Heads of departments, including those appointed by boards and commissions];

(f) One (1) principal assistant or deputy for each *person exempted under subsection (1)(e) of this section* [head of a department];

(g) One (1) additional principal assistant or deputy *as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner of personnel approves such an addition on petition of the relevant cabinet secretary or department head; and such other principal assistants, deputies, or other major assistants* [,or other major assistants] as may be necessary for making and carrying out policy *for each person exempted under subsection (1)(e) of this section* [, for each head of a department] in those instances in which the nature of the functions, size or complexity of the *unit* [agency] involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such [in institutions for treatment of patients with mental illness or tuberculosis];

(j) One (1) private secretary for each *person exempted under subsections (1)(e), (1)(f) and (1)(g) of this section* [head of a department and for each principal assistant or deputy not included in the classified service];

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions [, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.360 applicable to faculty members and staff]; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor;

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) Peace officers in the department of justice [, Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers];

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner *or shall be participants in a cooperative education program approved by the commissioner;*

(t) Superintendents of state *mental institutions, including heads of mental retardation centers, and* penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 3. KRS 18.160 is amended to read as follows:

(1) There shall be created by KRS 18.110 to 18.360 a department of personnel headed by a commissioner who shall be appointed by the governor. There shall also be created a personnel board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The personnel board shall consist of five (5) members appointed by the governor for four (4) year terms, and the governor shall select citizens of Kentucky known for their devotion to the merit principle in government employment and the improvement of management and professional development of the public service of the state. No member of the personnel board shall be otherwise an employe or officer of the Commonwealth except faculty or staff members of the state universities or colleges. No member of the personnel board shall be a member of any local, state, or national committee of a political party, or an officer or member of a committee in any partisan political club or organization, or shall be or have been a candidate for any elective office within one (1) year prior to appointment. Members of the personnel board shall receive compensation of *one hundred dollars ($100)* [fifty dollars ($50.00)] per diem and reimbursements of travel expenses and other special expenses for each called meeting of the board which they attend. If any board member misses three (3) consecutive meetings for any reason other than illness or temporary absence from the Commonwealth, he shall be deemed to have vacated his office and the governor shall proceed forthwith to appoint a successor to his unexpired term.

(2) The members of the first board shall be appointed by the governor within thirty (30) days of July 1, 1960. Of the members first appointed, one (1) shall serve until January 1, 1961, one (1) until January 1, 1962, one (1) until January 1, 1963, and two (2) until January 1, 1964. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies.

(3) Members of the personnel board may be removed by the governor only for cause after being given a copy of charges against them and an opportunity to be heard publicly, with the advice of counsel, on such charges against them before the governor and a finding of fact by the governor. A copy of the charges and transcript of the record of the hearing and findings of fact shall be filed with the secretary of state.

(4) The personnel board shall annually elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the chairman or the commissioner of personnel. At least one (1) meeting shall be held each month. All meetings shall be open to the public. Notice of each meeting shall be given in writing to each member by the commissioner of personnel at least three (3) days in advance of the meeting. Three (3) voting members shall constitute a quorum for the transaction of business. The personnel board shall keep records and minutes of its business and official actions, with the commissioner of personnel serving as secretary. Such minutes shall be public records open to public inspection, subject to such reasonable rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state buildings, upon written request of the personnel board, to assign suitable office space for executing the duties charged to it and to the commissioner of personnel.

Section 4. KRS 18.210 is amended to read as follows:

The commissioner of personnel shall prepare and submit to the personnel board proposed rules for the classified service. Such rules shall have the force and effect of law, when approved by the board, after public notice and public hearing, and after filing with the legislative research commission in accordance with KRS chapter 13 and procedures adopted thereunder. If not disapproved by the board within forty-five (45) days after the submission thereof, they shall have the same force and effect as if approved. Amendments thereto may be made in the same manner, or on the initiative of the board. The rules shall provide:

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the board, the commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(2) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the commissioner of the executive department for finance and administration. The plan shall take into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the board. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed;

(3) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service, and shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(5) For the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the personnel board for a period not to exceed one (1) additional year;

(6) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience, or who have been guilty of infamous or disgraceful conduct [; who are addicted to alcohol to excess or to narcotics], or who have attempted any deception or fraud in connection with an examination;

(7) For the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(8) For a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which period a probationer may be discharged or reduced in class or rank, or replaced on the eligible list. Unless the appointing authority notifies the employe prior to the end of the probationary period that the employe's services are not satisfactory, the employe shall have status in the classified service. The notice shall be in writing and as provided by personnel rules;

(9) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(10) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(11) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(12) For reinstatement within not more than five (5) years, only with the approval of the commissioner, of persons who resign in good standing or who are laid off from their positions without fault or delinquency on their part;

(13) For developing, in cooperation with the appointing authorities, uniform standards and methods of appraising work performance of all employes and for the use of such methods of appraisal in personnel actions;

(14) For lay-offs by reasons of lack of funds or work, or abolishment of a position, or material change in duties or organization, and for reinstatement of employes so laid off, giving consideration in both lay-offs and re-employment to qualifications, performance records, conduct and seniority in service;

(15) For imposition as disciplinary measures of a fine of not more than ten (10) working days' pay or for suspension from the service without pay for not longer than thirty (30) working days and for the manner of notification of the employe of the discipline and his right of appeal;

(16) For discharge or reduction in rank or grade only for cause, after the person to be discharged or reduced has been presented with the reasons for such discharge or reduction stated in writing, and has been allowed a reasonable time to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the head of the department or his deputy. The statement of reasons and the reply shall be filed as a public record with the commissioner;

(17) For establishment of a plan for resolving employe grievances and complaints;

(18) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(19) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(20) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted;

(21) For such other rules and administrative regulations not inconsistent with KRS 18.110 to 18.360, as may be proper and necessary for its enforcement.

Section 5. KRS 18.220 is amended to read as follows:

(1) The commissioner of personnel shall prepare and submit proposed rules to the governor for employes in non-merit system positions enumerated in paragraphs (f), (g), (h), (i), (j), (o), (t), and (u) of KRS 18.140(1). Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the commissioner of the executive department for finance and administration, and taking into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the commissioner of the executive department for finance and administration. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.360, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), *(e)* and (p) of *subsection (1) of Section 2 of this Act and on behalf of members of state boards and commissions who work on a full-time, salaried basis* [KRS 18.140].

Section 6. KRS 18.270 is amended to read as follows:

Any classified employe who is dismissed, demoted, suspended, or otherwise penalized after completing his probationary period of service may, within thirty (30) days after such dismissal, demotion, suspension, or *other form of* penalization, appeal to the personnel board for review thereof. Upon such review, both the appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. If the personnel board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age *or handicap,* the appointing authority shall not later than thirty (30) days after receipt of such findings and recommendations reinstate the employe to his former position or a position of like status and pay, without loss of pay for the period of his *penalization, or otherwise make the employe whole. If the personnel board finds that the action complained was taken without just cause, the personnel board may order the employe reinstated to his former position or a position of like status and pay, with or without loss of pay for the period of his penalization, or otherwise make the employe whole. In all other cases, if the personnel board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the personnel board may alter, modify or rescind the disciplinary action. The appointing authority shall, not later than thirty (30) days after receipt of the final order of the personnel board, comply with such final order.* [suspension. In all other cases, the findings and recommendations of the personnel board shall be submitted to the appointing authority for his consideration, who may, not later than thirty (30) days after receipt of such findings and recommendations, reinstate the employe with or without pay for the period of the suspension, modify his original decision of suspension, demotion, or discharge, or continue his original decision.] When any employe is dismissed and not *ordered* reinstated after such appeal, the personnel board in its discretion may direct that his name be placed on an appropriate re-employment list, for employment in any similar position other than the one from which he had been removed.

Section 7. KRS 18.310 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex *or handicap.* No person between the ages of 40 and 65 shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employe in the classified service or member of the personnel board or commissioner shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employe in the classified service.

(4) No employee in the classified service shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employes of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Section 8. KRS 161.153 is amended to read as follows:

Any teacher or state employe, *except employes subject to the provisions of KRS Chapter 18,* who serves on a jury in any duly constituted local, state or federal court shall be granted leave with full compensation, less any compensation received as jury pay, for the period of his actual jury service, which leave shall be in addition to all other leave to which the teacher or state employe may be entitled.

Section 9. KRS 207.130 is amended to read as follows:

As used in KRS 207.140 to 207.240 unless the context otherwise requires:

(1) "Persons" means one or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations*; provided that "persons" shall not include individuals who are employes or applicants for employment subject to the provisions of KRS Chapter 18.*

(2) "Physical handicap" means the physical condition of a person whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

(3) "Employer" means a person or governmental unit or officer in this state having in his or its employ eight or more individuals; and any person acting in the interest of an employer, directly or indirectly.

(4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employe representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is

subordinate to a national or international labor organization.

(5) "Property" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy, as a residence, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(6) "To rent" includes to lease, to sublease, to furnish as compensation, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(7) "Unfair employment practice" means an act that is prohibited under KRS 207.150, 207.160 or 207.170.

(8) "Unfair housing practice" means an act that is prohibited under KRS 207.180 or 207.190.

Section 10. KRS 18.360, Compensatory leave, is repealed.

The Committee Amendment No. 1 to **HB 405** is as follows:

Amend printed copy of **HB 405,** page 26, by deleting lines 10 and 11 and insert in lieu the following:

Section 10. KRS 18.360 is amended to read as follows:

A state employe who is authorized to work one or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. [The maximum amount of compensatory leave that may be accumulated shall be one hundred (100) hours. Upon separation from state service, unused compensatory leave shall be forfeited.] An employe who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

The Committee Amendment No. 2 to **HB 405** is as follows:

Amend printed copy of **HB 405,** page 4, line 17, by deleting "*nine (9)*" and inserting in lieu thereof " *eleven (11)*".

The Committee Amendment No. 3 to **HB 405** is as follows:

Amend printed copy of **HB 405,** page 24, line 21, by inserting after the word "state," the following language: "*except as provided in subsection 3 of this section,*"; and on

page 24, line 23, by deleting "*; provided that "persons" shall*"; and on

page 24, by deleting lines 24 and 25; and on

page 24, line 26 by deleting "*18*"; and on

page 25, line 7 by inserting after the word "state" the following language: "*, except the commonwealth of Kentucky for purposes of employes or applicants for employment who are subject to the provisions of KRS Chapter 18,*".

HB 416, AN ACT relating to state archives and records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.410 is amended to read as follows:

As used in KRS 171.410 to 171.740:

(1) "*Public* records" means all books, papers, maps, photographs, *cards, tapes, discs, recordings* and other documentary materials, regardless of physical form or characteristics, *which are prepared, received, owned, used, in the possession of, or retained* [made or received] by any *public* agency of the state government in pursuance of the state law or in connection with the transaction of public business and preserved or appropriate for preservation by that *public* agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein.

(2) "Department" means the department of library and archives.

(3) "Commission" means the state archives and records commission.

(4) "Public agency" means every state or local officer, state department, division, bureau, board, commission and authority; every legislative board, commission, committee and officer; every county and city governing body, council, school district board, special district board, municipal corporation, and any board, department, commission, committee, subcommittee, ad hoc committee, council or agency thereof; and, subject to the restrictions of KRS 26A.200-220, any other body which is created by state or local authority which derives at least twenty-five percent (25%) of its funds from state or local authority.

Section 2. KRS 171.420 is amended to read as follows:

The state archives and records commission, is hereby created and shall be a fifteen (15) member body constituted as follows: The state librarian, who shall be the chairman of the commission, secretary of the cabinet for education and arts, the auditor of public accounts, the chief justice of the Court of Appeals, the director of the legislative research commission, the attorney general, the director of the office for policy and management, one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the Kentucky historical society, one (1) member appointed by the governor from a list of three (3) persons submitted by the president of the Kentucky library association, one (1) member appointed by the governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, and four (4) citizens-at-large. Vacancies shall be filled by the governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years and one (1) for one (1) year. The commission shall advise the *department of libraries and archives* [executive department for finance and administration] on matters relating to archives and records, and questions on destruction of records as set out in KRS 171.670. *The commission shall have the authority to establish procedures and regulations as set forth in KRS 171.450 and to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records; their decision is binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.*

Section 3. KRS 171.440 is amended to read as follows:

The commission shall meet in the city of Frankfort, but the commission may, by majority vote, hold special or regular meetings in other locations when the work of the commission would be facilitated thereby. The commission shall hold not less than four (4) meetings during each calendar year and may hold such special meetings as may be necessary to transact the business of the commission. All meetings shall be called by the *state librarian* [director when directed by the chairman], or when requested in writing by any two (2) members of the commission.

Section 4. KRS 171.450 is amended to read as follows:

(1) The *archives and records commission* [department] shall establish:

(a) Procedures for the compilation and submission to the *commission* [department] of lists and schedules of public records proposed for disposal;

(b) Procedures for the disposal or destruction of public records authorized for disposal or destruction;

(c) Standards for the reproduction of public records by photographic or microphotographic process;

(d) Procedures for collection and distribution by the central depository of all reports and publications, except the Kentucky Revised Statutes editions, issued by any department, board, commission, officer or other agency of the commonwealth for general public distribution after July 1, 1958.

(2) The *commission* [department] shall enforce the provisions of KRS 171.410 to 171.740 by appropriate rules and regulations.

(3) The *commission* [department] shall make copies of such rules and regulations available to all officials affected by KRS 171.410 to 171.740 subject to the provisions of KRS chapter 13.

(4) It is intended that such rules and regulations be drawn in cooperation with the various state agencies and subdivisions; *however, the commission is vested with sole authority to decide questions concerning the archival value of public records and the classification thereof for purposes of destruction, storage for a definite time period or permanent retention.* Such rules and regulations when approved by the *commission* [department] shall be binding on all state and local agencies, subject to the provisions of KRS chapter 13. The department shall perform any acts deemed necessary, legal and proper to carry out the duties and responsibilities imposed upon it pursuant to the authority granted herein.

Section 5. KRS 171.460 is amended to read as follows:

In order for proper planning to be accomplished, the *commission* [department] shall cause a records management survey to be conducted in accordance with the regulations issued by the *commission* [department]

Section 6. KRS 171.470 is amended to read as follows:

The department is authorized to make continuing surveys of government records and records management and disposal practices and to obtain reports thereon from state and local agencies. [;] *Professional staff of the department is authorized to develop* [to promote, in cooperation] with [the various] state and local agencies [,] improved records management practices and controls [in such agencies,] *which are compatible with modern archival standards and facilitate* [including the] central storage or disposition of records not needed by such agencies for their current use [; and to report to the governor semiannually. The department shall submit a biennial report to the general assembly].

Section 7. KRS 171.500 is amended to read as follows:

The department is hereby constituted the central depository for public records. It shall be the duty of all departments, boards, commissions, officers or other agencies of the commonwealth to supply to the central depository copies of each of their reports and publications issued for general public distribution after July 1, 1958, in the number and in the manner prescribed by rule or regulation promulgated by the *commission* [department] pursuant to KRS 171.450. College, university, and public libraries may be constituted depository libraries by written order of the *commission* [department]. The central depository shall supply copies to such depository libraries in the number and in the manner prescribed by rule or regulation promulgated by the *commission* [department] pursuant to KRS 171.450.

Section 8. KRS 171.520 is amended to read as follows:

The *commission* [department] shall, with due regard to the program activities of the state and local agencies concerned, prescribe the policies and principles to be followed by state and local agencies in the conduct of their records management programs, and make provisions for the economical and efficient management of records by state and local agencies by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value and by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

Section 9. KRS 171.530 is amended to read as follows:

The *commission* [department] shall establish standards for the selective retention of records of continuing value, and assist state and local agencies in applying such standards to records in their custody. The department shall notify the head of any such *public* agency of any actual, impending, or threatening unlawful removal, defacing, alteration, or destruction of records in the custody of such agency that has come to its attention, and *initiate* [assist the head of such agency in initiating] action through the *agency head or* attorney general for the recovery of such records as shall have been unlawfully removed and for such other redress as may be provided by law.

Section 10. KRS 171.540 is amended to read as follows:

The department is authorized to inspect or survey the records of any state or local agency, as well as to make surveys of records management and records disposal practices in such agencies, and shall be given full cooperation of officials and employes of agencies in such inspection and surveys; Provided, That records, the use of which is restricted by or pursuant to law or for reasons of security or the public interest, shall be inspected or surveyed only in accordance with law, and the rules and regulations of the *commission* [department].

Section 11. KRS 171.550 is amended to read as follows:

The department is *the sole agency of state government* authorized to establish an interim records center or centers for the storage, processing, and servicing of records of state and local agencies pending their deposit in the state archives and records center or their disposition in any other manner authorized by law, and to establish, maintain and operate centralized microfilming, photostating, indexing, decontamination and lamination and any other records repair and rehabilitation services for state and local agencies.

Section 12. KRS 171.560 is amended to read as follows:

Subject to applicable provisions of law, the *commission* [department] shall promulgate rules and regulations governing the transfer of records from the custody of one (1) state or local agency to that of another.

Section 13. KRS 171.570 is amended to read as follows:

The *commission* [department] may empower any state or local agency, upon the submission of evidence of the need therefor, to retain records for a longer period than that specified in any approved disposal schedule, or by law but the agency shall report all such actions to the commission at its next meeting for approval or disapproval.

Section 14. KRS 171.670 is amended to read as follows:

When there is a question whether a particular record or group of records should be destroyed, the *commission shall have exclusive authority to* [department] shall decide whether or not the record or group of records are to be destroyed.

Section 15. KRS 171.680 is amended to read as follows:

(1) The head of each state and local agency shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency.

(2) Such program shall provide for:

(a) Effective controls over the creation, maintenance, and use of records in the conduct of current business;

(b) Cooperation with the department in applying standards, procedures, and techniques designed to improve the management of records;

(c) Promotion of the maintenance and security of records deemed appropriate for preservation, and facilitation of the segregation and disposal of records of temporary value;

(d) Compliance with the provisions of KRS 171.410 to 171.740 and the rules and regulations of the *commission* [department].

Section 16. KRS 171.690 is amended to read as follows:

Whenever the head of a state or local agency determines that substantial economies or increased operating efficiency can be effected thereby, he shall provide for the storage, processing and servicing of records that are appropriate therefor in the records center maintained and operated by the department or, when approved by the *commission* [department] in such location maintained and operated by the head of such agency.

Section 17. KRS 171.990 is amended to read as follows:

(1) Any person or Library Board violating any of the provisions of KRS 171.240 to 171.300 shall be fined not less than ten nor more than one hundred dollars for each offense.

(2) The Board for Certification of Librarians may revoke the certificate of any person violating any of the provisions of KRS 171.240 to 171.300, or any of the regulations as established by the Board for Certification.

(3) Any person violating any of the provisions of KRS 171.450 to 171.740 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(4) Any state employe who knowingly violates any of the provisions of KRS 171.450 to 171.740 shall be subject not only to the penalties specified above but also subject to dismissal from state employment upon a determination of fact, at a hearing, that a serious violation did occur. The employe's right to appeal to the state personnel board is not abridged or denied. In the event of an appeal, the decision of the state personnel board is final.

(5) State employes dismissed under the provision of subsection four (4) of Section 171.990 shall have the right to reapply for state employment any time after three (3) months from the effective date of dismissal. Such individuals shall have the full rights and privileges accorded under applicable equal opportunity laws.

The Committee Amendment to **HB 416** is as follows:

Amend printed copy of **HB 416**, on page 2, line 19, following the first "the," delete the words "Court of Appeals" and substitute the words "Supreme Court" in lieu thereof;

and on page 3, line 14, delete the word "libraries" and substitute the word "library" in lieu thereof;

and on page 10, line 7, remove the single bracket after the word "department" and place the bracket after the word "shall," so the bracketed words are " [department shall]"

and on page 11, beginning on line 4 and ending on line 13, bracket Section 16 in its entirety;

and on page 11, line 14, renumber "Section 17" as "Section 16"

and on page 12, add a new "Section 17" beginning on line 17 to read "Section 17. KRS 171.690, storage of agency records, is repealed."

HB 527, AN ACT relating to employes of the bureau of state police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.010 is amended to read as follows:
As employed in KRS 16.030 to 16.170, unless the context requires otherwise:
(1) "Department" means the department of justice;
(2) "Secretary" means the secretary of justice;
(3) "Commissioner" means the commissioner of the bureau of state police;
(4) "Officer" means any member of the Kentucky state police who possesses the powers of a peace officer;
(5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
(6) "Board" means the state police personnel board;
(7) "Bureau" means the bureau of state police*;*
(8) "Dispatcher" means any Kentucky state police radio dispatcher.

SECTION 2. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:
Beginning January 1, 1979, the bureau of state police shall grant salary increases to dispatchers equal to the percentage of any and all salary increases granted to sworn officers of the bureau. The department of personnel shall make any adjustments in the state compensation plan established under KRS Chapter 18, as the plan relates to dispatchers, that are necessary to implement this section.

HB 462, AN ACT relating to officers and employes of the bureau of state police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.010 is amended to read as follows:
As employed in KRS 16.030 to 16.170, unless the context requires otherwise:
(1) "Department" means the department of justice;
(2) "Secretary" means the secretary of justice;
(3) "Commissioner" means the commissioner of the bureau of state police;
(4) "Officer" means any member of the Kentucky state police who possesses the powers of a peace officer;
(5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
(6) "Board" means the state police personnel board;
(7) "Bureau" means the bureau of state police*;*
(8) "Dispatcher" means any Kentucky state police radio dispatcher;
(9) "Commander" means the officer appointed to serve as executive assistant to the commissioner and head of the office of operations of the bureau of state police.

SECTION 2. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:
The bureau of state police shall permit, and the bureau and the state treasurer shall implement, payroll deductions of dues to the Kentucky state police professional association when authorized by the officer requesting the payroll deduction.

SECTION 3. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:
Beginning January 1, 1979, the bureau of state police shall grant salary increases to dispatchers equal to the percentage of any and all salary increases granted to sworn officers of the bureau. The department of personnel shall make any adjustments in the state compensation plan established under KRS Chapter 18, as the plan relates to dispatchers, that are necessary to implement this section.

Section 4. KRS 16.030 is amended to read as follows:

(1) The commissioner shall be more than twenty-eight (28) years of age; shall be a citizen of the United States; and shall be selected on the basis of training, experience and qualifications for this position and preferably shall have at least five (5) years experience in public or police administration.

(2) Before filling the position of commander and executive assistant, the commissioner shall submit to the board a list of all sworn officers of the bureau above the rank of lieutenant along with their respective personnel files. The board shall interview each such officer, review his past performance, and submit to the commissioner a listing in numerical order of the fifteen (15) officers the board finds to be most qualified. From the list submitted by the board, the commissioner shall appoint one (1) of top three (3) listed officers as commander and executive assistant. The commissioner may change such appointment at any time, but he shall fill the position of commander and executive assistant, on each such occasion, in the manner required by the subsection.

(3) The commissioner may fill all positions in the bureau above the rank of captain from the list submitted by the board under subsection (2) of this section.

The Committee Substitute to **HB 462** is as follows:

HB 462, AN ACT relating to officers and employes of the bureau of state police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

The bureau of state police shall permit, and the bureau and the state treasurer shall implement, payroll deductions of dues to the Kentucky state police professional association when authorized by the employe requesting the payroll deduction.

HB 496, AN ACT relating to uniform reporting forms.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The department of justice in consultation with the department for human resources, the Kentucky commission on women, and any other agency concerned with particular acts of criminal activity, shall design, print and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, or any other particular area of criminal activity deemed by the secretary of justice to require research as to its frequency.

(2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 1979.

HCR 56, A CONCURRENT RESOLUTION memorializing the Congress of the United States to implement changes needed in the military code to regulate medical benefits for retired military personnel, and to induce the voluntary service of medical oriented personnel.

WHEREAS, according to the present military code, medical and dental benefits for retired military personnel and their families are not required but instead permitted, upon request and subject to the availability of space and facilities and the capabilities of the medical and dental staff; and

WHEREAS, military personnel are under a false conception concerning medical and dental benefits, after the time of retirement; and

WHEREAS, present monetary compensation and promotion are not sufficient incentive to attract adequate medical personnel toward military service;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Congress of the United States is hereby respectfully requested to enact legislation which will require and regulate medical and dental benefits for retired military personnel and their families.

Section 2. That champus benefits be raised to cover one hundred percent (100%) of medical and dental expenditures of both active and retired members of military service.

Section 3. That the Congress of the United States deregulate promotions of medical oriented personnel in order to induce voluntary service.

Section 4. That the Clerk of the House of Representatives be and hereby is directed to send a copy of this resolution to each member of the Kentucky Congressional delegation and to the appropriate authorities in the U. S. House of Representatives and Senate.

SB 35, AN ACT relating to the Kentucky Authority for Educational Television.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 168.040 is amended to read as follows:

The authority shall consist of nine (9) members, as follows:

The superintendent of public instruction, ex officio, who shall initially serve as temporary chairman and shall call and preside over the organizational meeting or meetings until such time as the members of the authority shall elect a chairman from among their number; a member of the staff or personnel of the department elected by the board upon recommendation of the superintendent of public instruction as being qualified to serve as liaison and coordinator between the authority and the department on matters of curriculum, and his terms shall be the same as that of the superintendent of public instruction by whom he is recommended, but terminable by the board in the event he is transferred to other duties in the department, and automatically terminated in the event of his severance from the department for any reason; a representative of the University of Kentucky and a representative of the state universities [and colleges] who are members of the council, to be elected by the council; [two (2) members qualified by education or working experience in the technical and engineering aspects of educational television and television facilities, to be appointed by the governor;] *five (5)* [three (3)] additional members appointed by the governor who need possess no special or prescribed qualifications except that they shall be citizens of Kentucky.

Calendar

HB 60, HB 236, HB 346, HB 380, HB 396, HB 411, HB 494, SB 90, SB 172, HB 273, HB 283, SB 181, HB 272, HB 374, HB 446, HB 447, HB 448, HB 450, HB 480, HR 9, HR 4, HR 53, SB 79, HB 128, HB 233, HB 407, SB 60, HB 79, HB 217, HB 219, and **HB 15** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Speaker vacated the Chair.

Representative Lindsay presiding.

The Clerk announced the filing of a petition to remove **SB 38** from Consent Orders of the Day.

Representative Johnson moved the adoption of the following Legislative Citation No. 35:

The House of Representatives hereby commends the Honorable Elmer L. Brown, the first Representative from the District of Daviess County, Kentucky serving in the House of Representatives in 1914. During that session, he was accorded the prestigious title "Baby of the House". His longevity of services was crowned with a brilliant performance. We honor his presence today as one of Kentucky's foremost Statesman and distinguished citizens. (Sponsored by Representative Johnson)

Agreed.

Representative Johnson moved that the rules be suspended for the purpose of introducing Honorable Elmer L. Brown and family, grant him the privilege of the floor, and allow him to address the House. Agreed.

Representative DeFalaise moved the adoption of the following Legislative Citation No. 45:

The House of Representatives hereby congratulates Mr. and Mrs. John Bernie Robinson on the occasion of the birth of their first child, Armstrong Matthew Robinson on Monday February 20, 1978. Mr. Robinson's long involvement and dedication to the public affairs, the Government of Kentucky and Mrs. Robinson's devotion to the advancement of Nursing and nursing education will give their new son a splendid heritage that will reflect public service and personal achievement. (Sponsored by Representative DeFalaise)

Agreed.

Representative Jones moved that the rules be suspended for the purpose of reconsidering the vote on **HB 355.** Agreed.

Representative Jones moved that **HB 355** be taken from the table and placed in Orders of the Day.

On the roll call the vote was yeas 58-Arnold, Bendl, Benson, Brinkley, Burch, Burnette, Clarke, Craddock, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Hines, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Priddy, Rattliff, Richards, B. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Tobin, Weinberg, Wells, White, Wilborn, Williams, Wright. Nays 8-J. Allen, Boswell, Bruce, Carpenter, Head, Little, McKinney, Van Horn.

The motion that **HB 355** be taken from the table and placed in Orders of the Day was adopted.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsors requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Bennett, **HB 60**; Representative Head, **HB 225**; Representative Plummer, **HB 652, HB 653, HB 659**; Representative Priddy, **HB 462, HB 527, HB 558**; Representative Richards, **HB 469, HB 517, HB 586, HB 587, HB 588, HB 589, HB 590, HB 591, HB 592, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598**; Representative Weinberg, **HB 462, HB 527.**

Representative Morris moved that a call of the roll be taken to show co-sponsors of **HB 666.**

The following members voted to co-sponsor **HB 666:** Bendl, Burch, Clarke, Guenthner, Kleier, Marcum, Maynard, Morris, Nett, Pearman, Siemens, Trevey, Turner.

Representative Fitzgerald moved that **SB 102** be recommitted to the Committee on Judiciary-Statutes. Agreed.

Representative Beshear moved that **HB 297** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Riner moved that the rules be suspended for the purpose of recording requests in regard to voting. Agreed.

Representative Riner requested that her vote be changed from "yea" to "nay" on SB. 36. Agreed.

Representative Riner requested that she be recorded as voting "yea" on **HB 157.** Agreed.

Representative Dawahare requested that he be recorded as voting "yea" on **HJR 16.** Agreed.

The Speaker resumed the Chair.

Orders of the Day

HB 187, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved the adoption of the Committee Substitute to **HB 187.** Agreed.

Representative F. Smith moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 187.** Agreed.

Representative F. Smith moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 187:**

Amend printed copy of Committee Substitute for **HB 187,** page 2, by inserting, after line 10 and before line 11, the following:

(5) As used in this section, "polling place" means fifty (50) feet measured radially from the voting machine.

Rejected.

Representative F. Smith moved that **HB 187,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 52-Arnold, Bendl, Bennett, Blythe, Brinkley, Brown, Burch, Clarke, Craddock, Cyrus, Davenport, DeFalaise, Dietz, Donnermeyer, Dunn, Gay, Haering, Hancock, Hines, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, List, Mann, Marcum, Maynard, McBee, Nett, Noe, O'Brien, Petty, Rattliff, Richards, P. Richardson, Romines, Sale, Siemens, F. Smith, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 40-Adams, J. Allen. W. Allen, Beshear, Blandford, Boatwright, Boswell, Bruce, Burnette, Carpenter, Crupper, Dawahare, DeMarcus, Deskins, Fitzgerald, Foster, Gray, Guenthner, Guy, Head, Holbrook, Holloway, Imes, Layman, Lindsay, Little, May, McKinney, Morris, Overstreet, Patrick, Pearman, Plummer, Priddy, B. Richardson, Riner, Robinson, Schmidt, Turner, White.

HB 187, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative F. Smith moved that the vote by which **HB 187,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative B. Richardson moved that the House recess for five minutes.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 393, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dietz moved the adoption of the Committee Substitute to **HB 393.** Agreed.

Representative Mann moved the adoption of the following Floor Amendment No. 2 to **HB 393:**

Amend printed copy of **HB 393/HCS,** page 3, line 4, delete the words "*may, at its option and in accordance with the*" and delete lines 5, 6, 7, 8, 9, and 10.

and on line 11, delete "*tion*", and add in lieu thereof the following words, "*shall submit the question of the license fee to the voters of the county at the next general election. If the license fee is rejected by a majority of those voting in the election, the license fee shall be repealed effective June 30 of the following year*".

Agreed.

Representative Dietz moved that **HB 393,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 60-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Burnette, Clapp, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Haering, Hancock, Head, Hines, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, Mann, McBee, McKinney, Nett, Noe, O'Brien, Pearman, Petty, Priddy, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 17-Adams, J. Allen, W. Allen, Brown, Carpenter, Fitzgerald, Guenthner, Guy, Little, Marcum, Overstreet, Plummer, Richards, Robinson, Tobin, Trevey, White.

HB 393, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Dietz moved that the vote by which **HB 393,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 239 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the following Floor Amendment No. 1 to **HB 239:**

Amend printed copy of **HB 239,** page 1, line 3, by inserting after the word "reinterment" the words "of graves";

and on page 1, line 10, after the number "316" and before the period insert the following: "; Provided, however, a person holding a valid funeral director's license of another state may perform disinterment, removal and reinterment if the state in which such person is licensed has a reciprocal agreement whereby a license granted under the provisions of KRS Chapter 316 is recognized and accepted in that state".

Agreed.

Representative Arnold moved that **HB 239,** as amended, be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright. Nays 0.

HB 239, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 239,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 202 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 202** be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright. Nays 0.

HB 202 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 202** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 221** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 263 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 263** be passed.

On the roll call the vote was yeas 71-Adams, J. Allen, Bendl, Bennett, Beshear, Boswell, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Marcum, May, McBee, McKinney, Morris, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stewart, Trevey, Van Horn, Wells, White, Wilborn, Williams, Wright. Nays 5-W. Allen, Blandford, Gray, Patrick, Thomas.

HB 263 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 263** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 350, HB 354,** and **HB 359** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 362 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 70-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, O'Brien, Overstreet, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Wells, White, Wilborn, Williams, Wright, Nays 15-W. Allen, Boatwright, Brinkley, Brown, Burnette, Crupper, Fitzgerald, Layman, Noe, Patrick, Pearman, Plummer, Thomas, Trevey, Weinberg.

HB 362 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 362** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 369 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Holloway moved that **HB 369** be passed.

On the roll call the vote was yeas 88-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright. Nays 0.

HB 369 was passed and the title agreed to.

Representative Holloway moved that the vote by which **HB 369** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 382** be deferred and that it retain its position. Agreed.

HB 435 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 435** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright. Nays 2-Deskins, Overstreet.

HB 435 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 435** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HJR 13** be deferred and that it retain its position in Orders of the Day.

HCR 29 taken from Orders of the Day. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of **HCR 29.**

HCR 29 was adopted by voice vote.

HR 47 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Imes moved the adoption of the following Floor Amendment No. 1 to **HR 47:**

Amend printed copy of **HR 47,** page 2, line 4, by inserting after the word "on"— in the space provided -

Agreed.

Representative Imes moved that **HR 47,** as amended, be adopted.

On the roll call the vote was yeas 95-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HR 47, as amended, was adopted.

Representative Imes moved that the vote by which **HR 47,** as amended, was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 24** had been examined and found correctly enrolled. **HB 24** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 24 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Orders of the Day (Continued)

HB 355 taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved that Floor Amendment No. 1 to **HB 355** be withdrawn.

Agreed.

Representative Williams moved that **HB 355** be passed.

On the roll call the vote was yeas 38-Bendl, Benson, Blythe, Boatwright, Brinkley, Burch, Burnette, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Guy, Hancock, Hines, Hurst, Isler, Jones, Kidd, Kleier, Lindsay, Mann, Marcum, Maynard, Nett, Noe, O'Brien, Patrick, Pearman, B. Richardson, Schmidt, Siemens, F. Smith, Thomas, Tobin, Weinberg, Wilborn, Williams. Nays 44-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boswell, Brown, Bruce, Carpenter, Clapp, Cyrus, Davenport, DeMarcus, Foster, Gray, Guenthner, Haering, Head, Holbrook, Holloway, Imes, Johnson, Kenton, Layman, Little, May, McBee, McKinney, Morris, Plummer, Richards, Riner, Robinson, Sale, Stone, Trevey, Turner, Van Horn, Wells, White, Worthington, Wright, Yates.

HB 355 was defeated.

Representative B. Richardson moved that the vote by which **HB 355** was defeated be reconsidered and said motion be postponed indefinitely. Agreed.

HB 297 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the following Floor Amendment No. 1 to **HB 297:**

Amend printed copy of **HB 297,** page 1, line 7 after "low." add "Opinions rendered pursuant to KRS 61.880 are not affected by the provisions of this Act."

Agreed.

Representative DeFalaise moved the adoption of the following Floor Amendment No. 2 to **HB 297:**

Amend printed copy of **HB 297,** page 1, line 7, by adding after the period the words: "This act shall not limit any defense that any person may have pursuant to KRS 501.070."

Agreed.

Representative Lindsay moved that **HB 297,** as amended, be passed.

On the roll call the vote was yeas 57-Adams, Arnold, Bennett, Beshear, Boswell, Brinkley, Brown, Bruce, Burch, Clapp, Clarke, Craddock, Davenport, DeFalaise, Deskins, Dunn, Fitzgerald, Foster, Gray, Guenthner, Haering, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, LeMaster, Lindsay, Mann, Marcum, Morris, Nett, O'Brien, Overstreet, Petty, Plummer, Richards, Riner, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 28-J. Allen, W. Allen, Benson, Blandford, Blythe, Boatwright, Burnette, Cyrus, Dawahare, DeMarcus, Donnerymer, Guy, Hancock, Head, Holloway, Layman, Little, May, McBee, McNutt, Noe, Patrick, Pearman, Rattliff, B. Richardson, P. Richardson, Tobin, Wells.

HB 297, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 297,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 221 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of the following Floor Amendment No. 2 to **HB 221:**

Amend printed copy of **HB 221,** page 1, line 20, by adding after the following after "care.":

"The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.606 to 16.652."

and on page 2, lines 18 and 19, by deleting the words "retirement allowances pursuant to KRS 16.581 or KRS 16.591.", and by inserting in lieu thereof, the following: "benefits provided members of the state police retirement system, which disability benefits shall be elective for the disabled officer, any other law to the contrary notwithstanding."

and on page 2, by deleting lines 20 through 26;

and on page 3, by deleting lines 1 through 26;

and on page 4, by deleting lines 1 through 26;

and on page 5, by deleting lines 1 through 12.

Agreed.

Representative White moved that **HB 221,** as amended, be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, Little, Mann, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright, Yates. Nays 1-Clarke.

HB 221, as amended, was passed and the title agreed to.

Representative White moved that the vote by which **HB 221,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 50 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **SB 50** be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Wright. Nay 6-W. Allen, Boatwright, DeMarcus, Guenthner, Haering, Imes.

SB 50 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 50** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 36, SB 40, SB 77, SB 84, SB 91, SB 93, SB 101, SB 132,** and **SB 153** have been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (Continued)

SB 19 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 19** be passed.

On the roll call the vote was yeas 72-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, List, Marcum, May, McBee, McKinney, Morris, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, Stone, Tobin, Trevey, Turner, Van Horn, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-W. Allen, Boatwright, Deskins, Fitzgerald, Guenthner, Imes, Lindsay, McNutt.

SB 19 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 19** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 33 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 33** be laid on the Clerk's desk.

On the roll call the vote was yeas 77-J. Allen, Bendl, Bennett, Beshear, Blandford, Blythe, Boswell, Brown, Bruce, Burch, Burnette, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Head, Hines, Holbrook, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Tobin, Trevey, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

The motion that **SB 33** be laid on the Clerk's desk was adopted.

SB 17 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **SB 17** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

SB 17 was passed and the title agreed to.

Representative Dunn moved that the vote by which **SB 17** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

SB 37 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **SB 37** be passed.

On the roll call the vote was yeas 68 -Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Hines Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Nett, Noe, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 10-Boswell, Burnette, Deskins, Donnermeyer, Fitzgerald, Little, Morris, Overstreet, Pearman, Riner.

SB 37 was passed and the title agreed to.

Representative Benson moved that the vote by which **SB 37** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 1 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **SB 1** be passed.

Representative Deskins moved that **SB 1** be laid on the table.

On the roll call the vote was yeas 11-Adams, W. Allen, Boatwright, Boswell, Little, McBee, Morris, Patrick, Pearman, Plummer, Richards. Nays 45-Arnold, Bennett, Blythe, Brinkley, Burch, Clarke, Craddock, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Head, Hurst, Isler, Johnsson, Kleier, LeMaster, List, Mann, Marcum, May, Nett, Noe, Petty, Priddy, Rattliff, B. Richardson, Riner, Sale, F. Smith, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates.

The motion that **SB 1** be laid on the table was rejected.

On the roll call the vote was yeas 60-J. Allen, Arnold, Bennett, Beshear, Blandford, Blythe, Boswell, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Hurst, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, Nett, Noe, O'Brien, Priddy, Rattliff, B. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright, Yates. Nays 20-Adams, W. Allen, Boatwright, Brinkley, Holbrook, Holloway, Imes, Little, McBee, McNutt, Morris, Patrick, Pearman, Petty, Plummer, Richards, P. Richardson, Robinson, Tobin, Trevey.

SB 1 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **SB 1** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 667, by Representatives P. Richardson and Bruce: AN ACT relating to the licensing of motor vehicles.

HB 668, by Representative Little: AN ACT relating to revenue and taxation.

HB 669, by Representative Gray: AN ACT relating to dogs.

HB 670, by Representative Siemens: AN ACT relating to criminal jurisdiction.

HB 671, by Representative Blythe: AN ACT relating to advertising.

HB 672, by Representative DeFalaise: AN ACT relating to setting aside convictions of certain youthful offenders.

HB 673, by Representatives Patrick and DeFalaise: AN ACT relating to fraudulent schemes.

HB 674, by Representatives Patrick and DeFalaise: AN ACT relating to the state grand jury.

HB 675, by Representative O'Brien: AN ACT relating to public procurement.

HB 676, by Representative B. Richardson: AN ACT relating to health care malpractice claims at the University of Kentucky.

HB 677, by Representative Deskins: AN ACT relating to the accumulation of and retirement credit for unused leave days.

HB 678, by Representative Deskins: AN ACT relating to the county employes retirement system.

HB 679, by Representatives Brinkley, B. Richardson, Kenton and Boatwright: AN ACT relating to persons under disability.

HB 680, by Representative McBee: AN ACT relating to sales and use taxes.

HB 681, by Representative Lindsay: AN ACT relating to salaries of executive directors of regional community mental health boards.

HB 682, by Representative Hurst: AN ACT relating to alcoholic beverage control.

HB 683, by Representatives Williams, Benson, Bendl, Hines, Kidd, Noe, Siemens and Weinberg: AN ACT relating to awarding of public contracts.

HB 684, by Representatives Dunn, Benson, Bennett, Burch, Clapp, Davenport, Fitzgerald, Kidd, Maynard, Nett, Priddy, Romines, Siemens and Van Horn: AN ACT relating to elections.

HB 685, by Representative F. Smith: AN CT relating to state personnel.

HB 686, by Representatives Adams and Carpenter: AN ACT relating to mental health and mental retardation.

HB 687, by Representative Overstreet: AN ACT relating to dairy product marketing.

HB 688, by Representatives Kleier and Maynard: AN ACT relating to the physically handicapped.

HB 689, by Representatives Hines, Bendl and Benson: AN ACT relating to motor fuel tax.

HB 690, by Representatives White, Robinson, J. Allen, Blandford, Dawahare, Head, Little and May: AN ACT relating to revenue and taxation.

HB 691, by Representatives Haering, Yates and Priddy: AN ACT relating to fiscal courts.

HCR 80, by Representatives Clarke, Benson, Lindsay, W. Allen, Bendl, Bennett, Beshear, Blythe, Davenport, DeFalaise, Dunn, Fitzgerald, Guenthner, Head, Hines, Holbrook, Holloway, Hurst, Imes, Kleier, Layman, Maynard, Nett, O'Brien, Patrick, Pearman, Plummer, Priddy, Riner, Romines, Schmidt, Siemens, Trevey, Wilborn and Yates: A CONCURRENT RESOLUTION requesting the Kentucky Supreme Court to exercise the authority vested in in by Section 111 (2) of the Constitution of Kentucky and authorize by rule that decisions of the Workmen's Compensation Board that are appealed be reviewed directly by the Court of Appeals.

HCR 81, by Representative B. Richardson: A JOINT RESOLUTION directing a study of the jurisdiction of standing committees of the General Assembly.

HJR 82, by Representative B. Richardson: A JOINT RESOLUTION directing the establishment of a task force to study the Commonwealth's legal system and making an appropriation therefor.

HCR 83, by Representative Weinberg: A CONCURRENT RESOLUTION directing a study of the fiscal impact of the Kentucky coal industry.

HCR 84, by Representative Riner: A CONCURRENT RESOLUTION concerning the imprisonment of the Russian Pastor, Georgi Vins, by the U.S.S.R.

Report of Committees

The Committee on Education reported **HB 92,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 92, AN ACT relating to public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.315 is amended to read as follows:

(1) Upon the recommendation of the superintendent of public instruction, the state board of education shall adopt regulations defining and prescribing the criteria for kindergartens in the common schools [and the eligibility requirements of pupils to attend these classes].

(2) The minimum age for entrance into kindergarten shall be such that a child must be eligible to attend the first grade during the school year immediately following one (1) year of kindergarten.

(3) Any child who meets the minimum age requirements established by KRS 158.030 for first grade attendance but who is less than seven (7) years of age and has not previously attended kindergarten shall be eligible to attend kindergarten if, in the judgment of the parent or guardian, the child would benefit more from kindergarten instruction than from first grade instruction. When the number of classroom units are insufficient to accommodate all eligible pupils in the district, older pupils shall be given priority.

Section 2. KRS 158.030 is amended to read as follows:

A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a qualified teacher for a term of eight or more months during the school year and every child residing in the district who *satisfies the age requirements of this Act* [is six years of age and over] has had the privilege of attending it. Provided, however, that any child who is six years of age or who may become six years of age by December *1, 1978; November 1, 1979; October 1, 1980; or September 1, 1981, and any year thereafter,* [31 following the opening of school] may enter school provided that he enters within thirty calendar days of the beginning of that school year, with the exception that in schools having mid-year promotions any child who is six years of age or who may become six years of age within thirty calendar days after the opening of the second semester may enter school at the beginning of that semester. [Any child who becomes six years of age later than December 31 following the opening of the school year shall not enter school during that year and in schools having mid-year promotions any child who becomes six years of age later than thirty days after the opening of the second semester shall not enter school during that semester.] Entrance age requirements for those pupils attending an approved kindergarten in the common schools shall be [as established] in accordance with [regulations adopted under] KRS 157.315.

The Committee Substitute to **HB 92** is as follows:

HB 92, AN ACT relating to public schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.315 is amended to read as follows:

(1) Upon the recommendation of the superintendent of public instruction, the state board of education shall adopt regulations defining and prescribing the criteria for kindergartens in the common schools [and the eligibility requirements of pupils to attend these classes].

(2) Any child who meets the minimum age requirements established by KRS 158.030 for first grade attendance but who is less than seven (7) years of age and has not previously attended kindergarten shall be eligible to attend kindergarten if, in the judgment of school officials and the consent of the parent or guardian, the child would benefit more from kindergarten instruction than from first grade instruction.

Section 2. KRS 158.030 is amended to read as follows:

A "common school" is an elementary or secondary school of the state supported in whole or in part by public taxation. No school shall be deemed a "common school" or receive support from public taxation unless the school is taught by a qualified teacher for a term of eight or more months during the school year and every child residing in the district who *satisfies the age requirements of this Act* [is six years of age and over] has had the privilege of attending it. Provided, however, that any child who is six years of age or who may become six years of age by *September 1, 1981, and any year thereafter, shall attend public* [December 31 following the opening of school may enter] school *as provided by KRS 157.135 or qualify for an exemption as provided by KRS 159.030* [that he enters within thirty calendar days of the beginning of that school year, with the exception that in schools having mid-year promotions any child who is six years of age or who may become six years of age within thirty calendar days after the opening of the second semester may enter school at the beginning of that semester]. Any child who *is five (5) years of age or who may become five (5) years of age by September 1, 1979 may enter a public school kindergarten* [becomes six years of age later than December 31 following the opening of the school year shall not enter school during that year and in schools having mid-year promotions any child who becomes six years of age later than thirty days after the opening of the second semester shall not enter school during that semester]. Entrance age requirements for those pupils attending an approved kindergarten in the common schools shall be as established in accordance with regulations adopted under KRS 157.315.

Section 3. KRS 159.010 is amended to read as follows:

Except as provided in KRS 159.030, each parent, guardian or other person residing in the state and having in custody or charge any child between the ages of *six (6)* [seven (7)] and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between *six (6)* [seven (7)] and sixteen (16) when the child has reached his *sixth* [seventh] birthday and has not passed his sixteenth birthday. [Any parent or guardian who elects to send a child six (6) years of age to school shall keep the child in regular attendance.] Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

Section 4. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private or parochial regular day school approved by the state board of education; or

(c) *Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school with a permit issued pursuant to KRS 158.310.*

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) [(d)] Who is enrolled and in regular attendance in state approved private or parochial school programs for exceptional children; or

(f) [(e)] Who is enrolled and in regular attendance in a state supported program for exceptional children.

(2) Before granting an exemption under paragraph *(d)* [(c)] of subsection (1) of this section the board of education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, psychologist or psychiatrist, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exclude any such child from school.

(3) For any such child who is excluded under the provisions of subsection (1)*(d)* [(c)], home, hospital, institutional or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the State Board of Education shall be provided.

Section 5. The effective date of this Act shall be July 1, 1979.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HR 46, HB 154, HB 493.**

Appropriations and Revenue: **HB 609, SB 134, SB 184.**

Judiciary-Statutes: **SB 102.**

Highways and Traffic Safety: **HCR 50.**

State Government: **HB 647, HB 648, HR 70, HB 144, SJR 17, HB 644, HB 586, HB 588, HB 589, HB 460, HB 590, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598.**

Business Organizations and Professions: **HB 599.**

Banking and Insurance: **HB 559, HB 632.**

Education: **HB 625, HB 626, HB 627.**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Health and Welfare: **HB 19.**

Appropriations and Revenue: **HB 112, HB 121, HB 124, HB 248.**

Announcements

Representative May moved that the rules be suspended for the purpose of making a request in regard to voting. Agreed.

Representative May requested that he be recorded as voting "yea" on HB 162 and **HJR 16.** Agreed.

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 3 to **HB 1** by Representative Robinson.

Floor Amendment No. 2 to Second Committee Substitute to **HB 1** by Representative Mann.

Floor Amendment No. 1 and 2 to Committee Substitute to **HB 152** by Representative Fitzgerald.

Floor Amendment No. 1 to **HB 262** by Representative Romines.

Floor Amendment No. 8 to **HB 332** by Representative B. Richardson.

Floor Amendment No. 1 to Committee Substitute to **HB 374** by Representative Patrick.

Floor Amendment No. 2 to **HB 382** by Representative Deskins.

Floor Amendment No. 2 to **HB 443** by Representative Brinkley.

Floor Amendment No. 2 to **HB 469** by Representative Hancock.

Floor Amendment No. 1 to **HB 550** by Representative Wright.

Floor (Title) Amendment and Floor Amendment No. 1 to **SB 33** by Representative Robinson.

Floor (Title) Amendment and Floor Amendment No. 1 to **SB 38** by Representative Deskins.

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, February 24, 1978.

On the roll call the vote was yeas 34-Bendl, Beshear, Boswell, Bruce, Craddock, Davenport, Donnermeyer, Dunn, Head, Hines, Holloway, Isler, Lindsay, Mann, May, Maynard, McBee, Morris, Nett, Pearman, Petty, Plummer, B. Richardson, Robinson, Schmidt, Stewart, Thomas, Tobin, Trevey, Van Horn, Wilborn, Worthington, Yates. Nays 7-Crupper, Gray, Guenthner, Holbrook, Imes, Priddy, P. Richardson.

The motion to adjourn was adopted.

FRIDAY, FEBRUARY 24, 1978

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Nick Kobek, Calvary Baptist Church, Frankfort.

The roll was called. All present except Representatives Maynard and R. Smith.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 23, 1978, be dispensed with and the same approved with the exception of the action on **HB 66** which is to be deleted because of non-compliance. Agreed.

Introduction of Bills and Resolutions

HB 692, by Representative Donnermeyer: AN ACT relating to divorce.

HB 693, by Representative Dietz: AN ACT changing the classification of Bromley, in Kenton County.

HB 694, by Representative Clarke: AN ACT relating to revenue and taxation.

HB 695, by Representatives Bennett and Dunn: AN ACT relating to metropolitan correctional services department employes.

HB 696, by Representative Gay: AN ACT relating to water well drillers.

HCR 85, by Representatives B. Richardson, Guy and Layman: A CONCURRENT RESOLUTION regarding Mammoth Cave National Park.

Senate Message

Announcing passage of **SB 133, SB 136, SB 163, SB 174, SB 214, SB 222, SB 233, SB 249,** and **SJR 19.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 669, HB 687, SB 175.**

Appropriations and Revenue: **HB 662, HB 668, HB 680, HB 689, HB 690, HR 83.**

Business Organizations and Professions: **HB 671, HB 682, SB 226.**

Cities: **HB 665.**

Counties and Special Districts: **HB 678, HB 691, HR 79.**

Education: **HB 676, SB 48, SB 182.**

Elections and Constitutional Amendments: **HB 684.**

Health and Welfare: **HB 681, HB 686, HB 688.**

Judiciary-Courts: **HB 670, HB 674, HR 82, HCR 80.**

Judiciary-Statutes: **HB 664, HB 672, HB 673, HB 679, HB 683, SB 143.**

Labor and Industry: **SB 224.**

Public Utilities and Transportation: **HB 666, HB 667.**

State Government: **HB 660, HB 663, HB 675, HB 677, HB 685, HR 81, HR 84, SB 124, SB 178, SB 70, HB 661.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HR 75, HR 84, SB 124.**

Judiciary-Statutes: **HB 472, SB 143.**

Business Organizations and Professions: **SB 236.**

Report of Committees

The Committee on Rules reported **HB 266, HB 337, HB 445, HB 471, HB 481, HB 517, HB 547, HB 548, HB 15, HB 60, HB 128, HB 219, HB 233, HB 236, HB 346, HB 380, HB 396, HB 446, HB 447, HB 448, HB 450, HB 494, HR 9, HR 44, HR 53, SB 64, SB 74** have been posted for passage in Orders of the Day, February 27, 1978.

The Committee on Rules reported the following Bills have been recommitted:

HB 408 to Committee on Judiciary-Statutes.

HB 342 to the Committee on Counties and Special Districts.

HB 469 to the Committee on Appropriations and Revenue.

HB 273 to the Committee on State Government.

Calendar

HB 534, HB 540, HB 168, HB 441, HB 603, HB 439, HB 523, HB 563, HB 356, HB 515, HB 549, HB 550, HJR 52, HB 552, HB 483, HB 498, HB 392, HB 438, HB 551, HB 188, HB 313, HB 405, HB 416, HB 527, HB 462, HB 496, HCR 56, SB 35, HB 93, and **HB 92** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Speaker vacated the Chair.

Representative Mann presiding.

Representative Bennett moved the adoption of the following Legislative Citation No. 52:

The House of Representatives hereby congratulates the Jesse Stuart High School Madrigals, a nationally known group of singers and their most capable Director, Mr. Phillip Cooper for their exceptional record. Twenty members of this group reside in the Valley Station Area. Out of 527 competitions, Jesse Stuart High School won a most creditable 519 entries. Their International Accomplishments were most noteworthy claiming distinction for our USA. In 1972, winners of Notre Dame Festival, Paris, France; 1975 First Place singing competition at Innsbuck, Austria; 1976 North American Championship in Quebec, Canada. They will compete in the Italian Festival at Pisa, Italy. We are proud of their international recognition and extend our best wishes in the Italian Festival. (Sponsored by Representative Bennett)

Agreed.

Representative Marcum moved the adoption of the following Legislative Citation No. 47:

The House of Representatives hereby congratulates the Johnson County Republican Woman's Club for being the recipient of the prestigious Diamond Award at the National Federation of Republican women in Atlanta, Georgia, last October 1977. This award symbolizes the fulfillment of all requirements for exemplary services in the promotion of Republican Women in politics. Educational and Civic responsibilities have great priority in the political process. We are proud of their national recognition and extend our best wishes for continued success. (Sponsored by Representative Marcum)

Agreed.

Representative Gray moved that **HB 251** be reconsidered and that it be placed in Orders of the Day.

Agreed.

The Chair ruled a roll call vote was needed to reconsider a Bill.

Representatives Donnermeyer and McBee appealed the ruling of the Chair.

Representative Donnermeyer moved that the appeal be withdrawn. Agreed.

Speaker Pro Tempore Clapp presiding.

Representative Gray moved that **HB 251** be reconsidered and placed in Orders of the Day.

On the roll call the vote was yeas 56-Arnold, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Cyrus, DeFalaise, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Isler, Jones, Kidd, Kleier, Layman, List, Mann, Marcum, May, McNutt, Nett, Noe, Pearman, Petty, Priddy, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, F. Smith, Stone, Thomas, Tobin, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 27-J. Allen, W. Allen, Bennett, Beshear, Clarke, Craddock, Crupper, Davenport, DeMarcus, Deskins, Dietz, Fitzgerald, Gay, Guenthner, Holloway, Johnson, Kenton, Lindsay, McBee, Morris, O'Brien, Plummer, Rattliff, Trevey, Turner, Van Horn, Wright.

The motion that **HB 251** be reconsidered and placed in Orders of the Day was adopted.

Recess

Representative B. Richardson moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Mann moved the House recess for a meeting of the Committee on Business Organizations and Professions in regard to **HB 616.** Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Blythe, **HB 691**; Representative Burch, **HB 691**; Representative Craddock, **HB 540**; Representative Dawahare, **HB 694**; Representative Guenthner, **HB 691**; Representative Hines, **HB 691**; Representative Holloway, **HB 691**; Representative Kleier, **HB 691**; Representative Marcum, **HCR 80, HB 665, HB 690**; Representative Nett, **HB 691**; Representative Riner, **HB 691**; Representative Williams, **HB 691**; Representative Wright, **HB 691.**

Orders of the Day

HB 382 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burnette moved that **HB 382** be passed.

Representative Deskins moved the adoption of the following Floor Amendment No. 2 to **HB 382:**

Amend printed copy of **HB 382,** page 1, line 10, by deleting the words "tail of"

and on page 2, line 1, by deleting the word "any" before the word "beaver" and by inserting in lieu thereof the word "live"

and on page 2, line 3, by deleting the word "tail" and by inserting in lieu thereof the word "beaver"

and on page 2, line 16, by deleting the words "and killing" and by adding an "s" to the word "beaver"

and on page 2, after line 25, by adding the following:

"Section 3. The department shall on a monthly basis transfer the captured beavers to a tributary of the Big Sandy River and take proper measures to promote beaver dams in such locations as to help in flood control."

Representative Tobin moved that Floor Amendment No. 2 to **HB 382** be laid on the table.

On the roll call the vote was yeas 20-Bendl, Benson, Beshear, Blythe, Brinkley, Burch, Carpenter, Clarke, Craddock, Dawahare, DeMarcus, Hancock, Kenton, Mann, McNutt, Pearman, B. Richardson, Robinson, Siemens, Tobin. Nays 73-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Boswell, Bruce, Burnette, Clapp, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Romines, Sale, Schmidt, F. Smith, Stone, Trevey, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates.

The motion that Floor Amendment No. 2 to **HB 382** be laid on the table was rejected.

Representative Deskins moved the adoption of the Floor Amendment No. 2 to **HB 382.** Rejected.

The Chair ruled Floor Amendment No. 2 rejected by voice vote. There was a general objection by members.

Representatives Deskins and Overstreet appealed the ruling of the Chair.

The Speaker vacated the Chair.

Speaker Pro Tempore Clapp presiding.

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday.

The Chair ruled the motion out of order.

On the roll call the vote was yeas 72-J. Allen, W. Allen, Arnold, Bennett, Benson, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Hurst, Imes, Johnson, Kleier, Layman, LeMaster, List, Mann, Marcum, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, Stone, Tobin, Trevey, Weinberg, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 18-Adams, Bendl, Beshear, Carpenter, Clarke, DeFalaise, Deskins, Fitzgerald, Guenthner, Holbrook, Isler, Jones, Kidd, Lindsay, Little, Overstreet, Van Horn, White.

The ruling of the Chair was upheld.

The Speaker resumed the Chair.

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns it do so by voice vote. Agreed.

Representative B. Richardson moved that no other business be conducted other than Introduction of Bills and Resolutions and Report of Committees.

The Speaker ruled the motion out of order.

HB 382 (continued)

Representative Burnette moved that **HB 382** be passed.

Representative Deskins moved that **HB 382** be laid on the table.

On the roll call the vote was yeas 24-Bendl, Benson, Beshear, Blythe, Boatwright, Brinkley, Burch, Carpenter, Clarke, Craddock, Deskins, Hines, Holbrook, Kidd, Little, Mann, McNutt, Pearman, Richards, Siemens, Tobin, White, Wilborn, Yates. Nays 60-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boswell, Bruce, Burnette, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Hearing, Hancock, Head, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, Marcum, McBee, McKinney, Morris, Nett, Noe, Patrick, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Romines, Sale, F. Smith, Stone, Van Horn, Wells, Williams, Worthington, Wright.

The motion that **HB 382** be paid on the table was rejected.

Representative Blythe moved that the House adjourn.

Representative Blythe moved that his motion to adjourn be withdrawn. Agreed.

On the roll call the vote was yeas 63-Adams, J. Allen, W. Allen, Arnold, Bennett, Boswell, Brown, Bruce, Burnette, Clapp, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Imes, Isler, Johnson, Kleier, Layman, LeMaster, Lindsay, Little, Marcum, McBee, McKinney, Morris, Noe, O'Brien, Patrick, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner Romines, Sale, F. Smith, Stone, Van Horn, Wells, Williams, Worthington, Wright, Yates. Nays 22-Bendl, Benson, Beshear, Blythe, Boatwright, Brinkley, Burch, Carpenter, Craddock, DeMarcus, Deskins, Holbrook, Kidd, Mann, McNutt, Pearman, Plummer, Robinson, Siemens, Tobin, White, Wilborn.

HB 382 was passed and the title agreed to.

Representative Burnette moved that the vote by which **HB 382** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred. Agreed.

Announcements

The Clerk announced a meeting of the Committee on Appropriations and Revenue, Room 307, immediately after the meeting of the Committee on Rules.

The Clerk announced a budget hearing, Committee on Appropriations and Revenue,Room A, Monday, February 27, 1978.

The Clerk announced a special meeting of the Committee on Cities one and one-half hour before convening, Room C, Monday, February 27, 1978.

The Clerk announced a special meeting of the Committee on Education, Room 307, Monday, February 27, 1978.

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HR 61** by Representative Richards.

Floor Amendment No. 4 to the Second Committee Substitute to **HB 1** by Representative Lindsay.

Floor Amendment No. 5 to the Second Committee Substitute to **HB 1** by Representative Robinson.

Floor Amendment No. 1 to **HB 92** by Representative Richards.

Floor Amendment No. 3 to Committee Substitute to **HB 152** by Representative Clapp.

Floor Amendment No. 1 to **HB 216** by Representative Donnermeyer.

Floor Amendment No. 2 to **HB 216** by Representative B. Richardson.

Floor Amendment No. 3 to Committee Substitute to **HB 359** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 445** by Representative Kleier.

Floor Amendment No. 1 to **HB 546** by Representative Dawahare.

Floor Amendment No. 1 to **HB 609** by Representative B. Richardson.

Floor Amendment No. 1 to **SB 22** by Representative Richards.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 697, by Representative Worthington: AN ACT relating to mileage allowances for peace officers.

HB 698, by Representatives Isler, Dietz and Petty: AN ACT relating to mobile radios.

HB 699, by Representative White: An ACT relating to the reissuance of state treasure checks.

HB 700, by Representatives Cyrus, Bennett, Dietz, Deskins, Fitzgerald, Gray, Romines and Van Horn: AN ACT relating to workmen's compensation and making an appropriation therefor.

HB 701, by Representatives Bendl and Siemens: AN ACT relating to public transportation.

HB 702, by Representatives Petty, DeFalaise, Benson, Crupper, Dietz, Donnermeyer, Isler, Mann, McBee and Schmidt: AN ACT relating to sale of property for delinquent taxes in cities of the second class.

HB 703, by Representatives Gray, Guenthner and Bennett: AN ACT relating to occupational safety and health of employes.

HB 704, by Representatives Yates and O'Brien: AN ACT relating to special districts.

HB 705, by Representatives Yates, Guenthner, Bennett, Burch, Dunn, Haering, Holloway, Kleier, Priddy, Romines and Wright: AN ACT relating to school taxes.

HB 706, by Representatives Patrick, McKinney, Gay, Layman and Van Horn: AN ACT relating to taxes.

HB 707, by Representatives Dietz and McBee: AN ACT relating to youth camps.

HB 708, by Representatives McBee, Donnermeyer and Petty: AN ACT relating to the compensation of sheriffs.

HB 709, by Representatives Wilborn and Jones: AN ACT relating to automobile insurance.

HB 710, by Representative Patrick: AN ACT relating to annexation or reduction of territory by a city of the third class.

HB 711, by Representative Richards: AN ACT relating to cosmetologists.

HJR 86, by Representatives B. Richardson and Fitzgerald: A JOINT RESOLUTION directing the establishment of a task force to study the Commonwealth's legal system and making an appropriation therefor.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee Consideration:

Health and Welfare: **SB 200, HB 639. HB 218** withdrawn from consideration.

State Government: **HB 558, HB 675, HB 660, HB 661.**

Appropriations and Revenue: **HB 655.**

Judiciary-Courts: **HB 617, HB 656.**

Education: **SB 182, HR 76, HB 676.**

Public Utilities and Transportation: **HB 528.**

Agriculture and Natural Resources: **SB 149.**

Judiciary-Statutes: **HB 605, HB 683.**

Health and Welfare: **HB 650.**

Counties and Special Districts: **HB 678, HR 79.**

Cities: **HB 539, SB 165, HB 657.**

Report of Committees

The Committee on Cities reported **HB 87,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committees on Rules.

The Committee Substitute to **HB 87** is as follows:

HB 87, AN ACT relating to the Kentucky Municipal Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 81A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

In order to update the record of incorporation of cities in the secretary of state's office, every city presently operating as a public corporation and a unit of local government shall file with the secretary of state within one (1) year of the effective date of this Act a document listing the name of the city, the year of its incorporation, the present classification and the present boundaries. If a city fails to comply with this section, it shall be barred from receiving state monies until such time as the city complies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

Prior to the incorporation of any unincorporated territory as a city, there shall be established in the county a formation commission. If a county has no formation commission, the fiscal court shall, within thirty (30) days after a petition for incorporation has been filed, unless the petition has been dismissed pursuant to Section 4 of this Act, cause the creation and establishment of a formation commission.

SECTION 3. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall consist of not less than three (3) nor more than seven (7) members selected as follows:

(a) The county judge/executive or his designee shall be a member and shall serve as chairman.

(b) The county judge/executive shall appoint one (1) representative of each constitutional class of city in the county from a list of three (3) nominated by the mayor of the largest city of each class, and where there is no incorporated city in the county, the county judge/executive shall appoint two (2) residents of the county.

(c) If the number of members as provided above is an even number, the county judge/executive shall appoint and additional member.

(2) The term of each member shall be two (2) years and until the appointment and qualification of his successor, except that the term of the county judge/executive shall expire upon the termination of his office. A member may succeed himself.

(3) The fiscal court shall provide for the necessary expenses of the commission and may provide each member reasonable expenses incurred in the course of commission business.

(4) Vacancies on the commission shall be filled in the same manner as original appointments. A member may be removed for cause by a majority vote of the commission.

(5) An affirmative vote by a majority of the commission is required to take official action.

SECTION 4. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) A petition for incorporation shall be filed with the county clerk.

(2) A petition for incorporation shall contain:

(a) The signatures and addresses of:

1. A number of registered voters equal to two-thirds (2/3) of the voters of the proposed territory who voted in the immediate past general election; or

2. A number of real property owners equal to the owners of at least two-thirds (2/3) of the assessed value of the real property in the proposed territory;

(b) A statement of the boundaries proposed and the number of residents;

(c) An accurate map of the proposed territory;

(d) A detailed statement of the reasons for incorporation, including the services sought from the proposed city;

(e) A description of the existing facilities and services within the proposed territory; and

(f) A statement of the form of government under which the city will operate if incorporated, chosen from the forms of government authorized in Sections 20 to 36 of this Act.

(3) Within a period of twenty (20) days after the petition for incorporation has been filed, the county judge/executive shall dismiss the petition, if he finds that:

(a) The petition does not comply with the requirements for filing;

(b) The request for incorporation is frivolous; or

(c) Substantially the same proposal has been disapproved by a formation commission within the preceding two (2) years.

SECTION 5. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall adopt standards and procedures for the conduct of its proceedings and may:

(a) Subpoena witnesses, documents and materials;

(b) Approve or direct an amendment of a petition, provided the amendment is in conformity with the requirements of Sections 6 and 7 of this Act;

(c) Employ, and the fiscal court shall pay, such personnel as are necessary for a prompt and final determination, with the number of employes being approved by the county judge/executive; and

(d) Exercise all other powers necessary to carry out its purposes.

(2) The commission shall preserve a record of the entire proceedings, pursuant to Section 6 of this Act, which shall be filed with the county clerk upon final determination.

(3) All reasonable costs of the proceedings shall be borne by the petitioners for incorporation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the petition has been filed, if it has not been dismissed, the formation commission shall conduct a hearing relating thereto. Notice of the hearing shall be published pursuant to KRS Chapter 424.

(2) At the hearing, the commission shall:

(a) Receive all information, written or oral, that any interested person wishes to present and that is relevant to the resolution of the questions before the commission; and

(b) Seek all information, written or oral, that the commission believes will be useful to the resolution of the questions before it.

(3) If the commission amends a petition, it shall give notice of the amendment to the petitioners, and shall publish notice pursuant to KRS chapter 424. If notice of an amendment is given less than seven (7) days before the commencement of the hearing, during the hearing, or after the termination of the hearing, and if any person informs the commission, within seven (7) days from the date such notice is given, of his or her desire to present information relevant to the amendment, the commission shall continue the hearing for a reasonable time or reopen it within a reasonable time to receive that information.

(4) More than one (1) hearing may be conducted by the commission if necessary and appropriate for a complete and final determination.

SECTION 7. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall approve a proposed incorporation if it meets the following standards:

(a) At least three hundred (300) persons reside in the territory sought to be incorporated;

(b) Incorporation constitutes a reasonable way of providing the public services sought by the voters or property owners of the territory, and there is no other reasonable way of providing the services;

(c) The territory is contiguous;

(d) The territory is able to provide necessary city services to its residents within a reasonable period after its incorporation; and

(e) The interest of other areas and adjacent local governments is not unreasonably prejudiced by the incorporation.

(2) In determining whether the standards for incorporation have been met, the commission shall consider, but is not limited to the consideration of, the following criteria:

(a) Whether the character of the territory is urban or rural;

(b) The ability of any existing city, county or district to provide needed services;

(c) Whether the territory and any existing city are interdependent or part of one community;

(d) The need for city services in the territory;

(e) The developmental scheme of applicable land-use plans;

(f) The area and topography of the territory; and

(g) The effect of the proposed incorporation on the population growth and assessed valuation of the real property in the territory.

SECTION 8. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) The commission shall, within thirty (30) days of the final hearing, render an order approving or disapproving the proposed incorporation.

(2) If incorporation is approved, the order shall set out the name of the city, a metes and bounds description of its boundaries, and the population contained therein.

(3) The commission shall forthwith certify any final order approving incorporation to the secretary of state who shall file and index the same as a permanent record in that office.

(4) Upon entry of any order of incorporation the county judge/executive shall appoint the elective officers for the city pursuant to the form of government stated in the petition, who shall serve until the next election at which officers for cities may be elected.

SECTION 9. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by a dismissal of a petition pursuant to Section 4 of this Act or a final order of the formation commission may appeal to the circuit court of the county within thirty (30) days of the entry of the order appealed from in the manner prescribed by Section 48 of this Act.

(2) The court shall conduct the review in the manner prescribed by Section 48 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

Where the proposed boundaries set forth in the petition for incorporation extend into two (2) or more counties, the petition shall be filed with the county clerk of the county wherein the greatest number of the residents of the proposed territory reside. The county judge/executive of each other affected county shall be an additional member of the formation commission having jurisdiction and shall hold such membership only for the purpose of considering the multi-county problem and until such time that a final order has been issued concerning such territory. If the petition initially concerns boundaries extending into two (2) or more counties, but the formation commission has amended the petition so as to no longer extend into another county or counties, the county judge/executive of such county or counties shall be removed from membership of the commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
After an order establishing a city has been entered, the general laws relating to cities of the class which includes the population of the newly incorporated city shall apply to the city until the city is assigned to another class by the general assembly.

SECTION 12. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) When a city has been assigned by the general assembly to another class, it shall thereafter be governed by the laws relating to the class to which it has been assigned, but the transfer from one class to another shall not affect any ordinance theretofore enacted by the city, except that any ordinance in conflict with the laws relating to cities of the class to which the city has been assigned shall be repealed to the extent it so conflicts.

(2) Any officer holding office in any city changed to a classification other than that held at the time the officer was elected shall hold his office until the term for which he was elected has expired.

SECTION 13. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
Cities bounded in part by the Ohio River shall have concurrent jurisdiction with the Commonwealth over the waters of the river opposite to the city. If the boundary between a city and one (1) or more other cities, or between a city and a county other than that in which the city is situated, is a stream within the state, the city shall have concurrent jurisdiction with the other city or cities, or the county, over the waters of the stream opposite to the city.

SECTION 14. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) If any city fails for one (1) year to maintain a city government by the election or appointment of officers and the levying and collection of necessary taxes, it may be dissolved by judgment of the circuit court on petition filed by a bona fide resident of the city.

(2) A city may be dissolved by judgment of the circuit court on petition filed by a majority of the voters in the city. The petition shall contain the signature and address of each petitioner.

(3) Each petition for dissolution shall be filed in the circuit court of the county in which the greater part of the city is located and shall set out the name and class of the city, a metes and bounds description of its boundaries, the number of voters and residents therein, and other facts relevant to the petition.

SECTION 15. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:
(1) Defense to the petition may be made by any voter or resident of the city.

(2) Judgment dissolving a city may not be entered until:

(a) Notice has been published pursuant to KRS Chapter 424 by order of the court fixing a date by which motion for intervention may be filed; and

(b) Provision for equitable disposition of all assets of the city and discharge of all obligations of the city has been made and approved by the court.

(3) Whenever any city is dissolved the judgment shall direct the clerk of the circuit court wherein such judgment is rendered to certify a copy of said judgment not later than ten (10) days thereafter to the secretary of state, whose duty it shall be to properly index and file the same as a permanent record in that office.

SECTION 16. KRS CHAPTER 82A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:
Each city shall constitute a corporation, with capacity to sue and be sued, to contract and be contracted with, to acquire and dispose of property, and to have a common seal and change it at pleasure or act without a seal.

SECTION 17. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:
(1) A city may exercise any power and perform any function that is in furtherance of a public purpose of the city and not in conflict with a constitutional provision or statute; provided, however, that a city shall not under this chapter, derive any power or authority relating in any manner to the provision of electric utility service or the ownership or operation of facilities for such purposes.

(2) A power or function is not in conflict with a statute unless it is expressly prohibited by a statute or irreconcilable with a statute.

SECTION 18. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

(1) Whenever any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected or immediately adjacent to the proposed public way or easement, showing the proposed name, nature and dimensions of the public way or easement offered for dedication. If the city legislative body believes the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) Property dedicated as a public way or easement by the owner within any territory subsequently annexed to a city shall not be a public way or easement of the city until dedication by the owner has been accepted by ordinance.

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years.

SECTION 19. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

(1) Upon the adoption of an ordinance by the city legislative body closing the whole or any portion of a public way, the city shall institute an action in the circuit court to have it closed. All the owners of property abutting that public way, or the portion proposed to be closed, shall be made defendants.

(2) If all defendants fail to object to the closing within twenty (20) days after the date of service, the court shall render a decree accordingly, but if any defendants object within the time, the court shall award damages, if any, in the same manner as prescribed by the Eminent Domain Act of Kentucky and shall direct that the public way be closed upon payment into court of the amount awarded. The court shall give these proceedings precedence over other cases.

SECTION 20. KRS CHAPTER 83A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the board of commissioners in any city organized and governed under the city manager plan.

(2) "City" means any city of the second through sixth class.

(3) "Commission" means the city commissison in any city organized and governed under the commission plan.

(4) "Council" means the city council in any city organized and governed under the mayor-council plan.

(5) "Executive authority" means the mayor in any city organized and governed under the mayor-council plan, the commission in any city organized and governed under the commission plan, or the city manager in any city organized and governed under the city manager plan.

(6) "Legislative body member" means a city councilman in any city organized and governed under the mayor-council plan or a city commissioner in any city organized and governed under either the commission plan or the city manager plan.

(7) "Officer" means any person elected to a position by the voters or any person appointed to a position which:

(a) is created by the Kentucky constitution, the general assembly, or a city;
(b) possesses a delegation of a portion of the sovereign power of government;
(c) has powers and duties to be discharged which are conferred directly or by implication by a city;
(d) has duties performed independently and without control of a superior power other than law;
(e) has some permanency;
(f) requires an official oath;
(g) is assigned by a commissison or other written authority; and
(h) provides for an official bond if required by proper authority.

(8) "Ordinance" means an official action of a city legislative body, which is a regulation of a general and permanent nature and enforceable as a local law or is an appropriation of money.

(9) "Summary" means a brief narrative prepared under the supervision of an attorney succinctly covering the main points of an official statement or rule in a way reasonably calculated to inform the public as to its meaning.

SECTION 21. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city presently organized and governed under provisions of a mayor-council plan is hereby declared to be organized and governed under the mayor-council plan pursuant to Section 32 of this Act. Each city presently organized and governed under the provisions of a commission plan is hereby declared to be organized and governed under the commission plan pursuant to Section 33 of this Act. Each city presently organized and governed under provisions of a city manager is hereby declared to be organized and governed under the city manager plan pursuant to Section 34 of this Act.

(2) The present organizational structure of each city shall remain in force until changed under this chapter. All ordinances and resolutions presently in force in each city not in conflict with statutes, shall remain in force until changed.

SECTION 22. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city organized and governed under the mayor-council plan shall have a mayor and each shall have a legislative body composed of twelve (12) members in cities with populations or twenty thousand (20,000) or more or six (6) members in cities with populations under twenty thousand (20,000), as determined by the most recent federal census. Each city organized and governed under either the commission plan or the city manager plan shall have a legislative body composed of a mayor and four (4) commissioners.

(2) Before expiration of the terms of the legislative body members existing upon the effective date of this Act, each city shall take necessary action to be in compliance with this section, and in no event, shall a city fail to be in compliance within two (2) years from the effective date of this Act. Compliance may be compelled by injunction upon petition to the circuit court by any citizen of the Commonwealth.

(3) Any city required to change legislative body size under this section as a result of a federal census, except cities which have staggered terms under provisions of Section 30 of this Act, shall take necessary action to be in compliance with this section upon expiration of the terms of legislative body members existing upon the effective date of this Act.

(4) Any city having staggered terms for legislative body members required to increase legislative body size under this section as a result of a federal census shall take necessary action to elect additional legislative body members under provisions of Section 24 of this Act. Length of terms for such additional legislative body members shall be determined as provided in Section 30 of this Act.

(5) Any city having staggered terms for legislative body members required to decrease legislative body size under this section as a result of a federal census shall, at the expiration of the terms of half of the legislative body next occurring, not fill those offices, and at the next succeeding regular election, the terms for the remaining legislative body members shall be determined under the provisions of Section 30 of this Act.

SECTION 23. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) A mayor shall be elected by the voters of each city at a regular election. His term of office shall begin on the first Monday of January following his election and shall be four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the legislative body of the city shall fill the vacancy within thirty (30) days.

(3) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first Monday of January following his election and shall be for two (2) years and until his successor qualifies, except as provided by Section 30 of this Act. A member shall be at least twenty-five (25) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(4) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the governor shall appoint qualified persons to fill the vacancies.

(5) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(6) Any elected officer, in case of misconduct, inability, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body, exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected

officer shall be removed without having been given the right to a full public hearing which shall be conducted and the record maintained in the manner prescribed in Sections 43 to 47 of this Act. The officer, if removed, shall have the right to appeal to the circuit court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which he was originally elected.

SECTION 24. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Election of city officers shall be governed by general election laws as provided in KRS Chapters 116 through 125 unless the city legislative body prescribes by ordinance, not later than two hundred forty (240) days prior to a regular election in which any city office is to be filled, that election of city officers shall be under nonpartisan city election laws as provided in Section 36 of this Act.

(2) A city may change the manner of election of city officers within the provisions of subsection (1) of this section by ordinance, except that no change shall be made earlier than five (5) years from the last change.

(3) The city shall pay the costs of city elections only if city elections are held at a time other than prescribed by law for elections generally.

SECTION 25. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City of ------------."

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication for an ordinance by naming and describing the emergency in the ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and upon passage of an ordinance, the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of each month, be indexed and maintained in such a way as to constitute a complete and permanent record of all ordinances in force in the city, except that the budget ordinance shall be indexed in a way that each index list covers one (1) fiscal year.

(9) No ordinance shall be effective until published pursuant to KRS Chapter 424, either in full or in summary form as designated by the legislative body.

(10) No action of a legislative body shall be invalidated because of improper denomination of an ordinance or other action if the formalities required for adoption have been observed.

SECTION 26. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of each city shall by ordinance fix the compensation of every elected city officer not later than the first Monday in May in the year in which the officer is elected. An elected officer's compensation shall not be changed after his election or during his term of office.

(2) The legislative body of each city shall fix the compensation of each appointed city officer in the ordinance that creates the office and may change such compensation only by ordinance.

(3) The legislative body of each city shall fix the compensation of city employes in accordance with a personnel and pay classification plan which shall be adopted by ordinance.

(4) All fees and commissions authorized by law shall be paid into the city treasury for the benefit of the city and shall not be retained by any officer or employe.

SECTION 27. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) All nonelected city offices shall be created by ordinance which shall specify:

(a) Title of office;

(b) Qualifications for office;

(c) Term of office;

(d) Powers and duties of office;

(e) Oath of office;

(f) Bond, if required; and

(g) Compensation.

(2) All nonelected city officers shall be appointed by the executive authority of the city with approval of the city legislative body, if separate from the executive authority. The officers may be removed by the executive authority at will unless protected by law.

(3) Each appointed and elected city office existing upon adoption of this Act shall continue until abolished by ordinance, except that the offices of mayor and legislative body member may not be abolished. No abolition of any elected office shall take effect until expiration of the term of the current holder of the office. No ordinance abolishing any elected office shall be enacted later than two hundred forty (240) days preceding the regular election for that office, except in the event of a vacancy in the office.

(4) No city may create any elected office. Existing elected offices may be continued under provision of subsection (3) of this section, but no existing elected office may be changed.

SECTION 28. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Each city may create the position of city administrative officer which shall be directly responsible to the executive authority of the city. Prior to appointment of a city administrative officer, the city legislative body shall in accordance with Section 27 of this Act set qualifications, which shall include but not be limited to, professional training and experience in administration sufficient to insure competence, and list duties and responsibilities of the position which shall include, but not be limited to:

(a) Advise the executive authority of the city in policy formulation on overall problems of the city;

(b) Have major responsibility for preparation and administration of operating and capital improvement budgets under direction of the executive authority;

(c) Advise the executive authority of the city in the appointment of subordinate administrative personnel, if not delegated appointment authority by appropriate order; and

(d) Have continuing direct relationships with operating department heads on implementation and administration of programs.

(2) The city administrative officer shall carry out all additional duties lawfully delegated by appropriate order of the executive authority and shall have the same powers as the executive authority in carrying out such duties.

SECTION 29. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of a city may by ordinance divide the city into the same number of wards as the number of legislative body members. Wards shall be as nearly equal in population as practicable and their boundaries shall be fixed by the ordinance.

(2) The populations of wards shall be reviewed as necessary to insure that populations are as nearly equal as practicable, but in no event shall the populations of wards be reviewed for equalization less often than each regular federal census.

(3) Wards may be abolished by repeal of the ordinance creating them. No creation, alteration or abolition of wards shall occur within two hundred forty (240) days preceding a regular election.

(4) If a city is divided into wards, legislative body members shall be nominated in the primary election by ward, but they shall be elected in the regular election at-large in such a way that each ward is equally represented on the legislative body.

SECTION 30. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Staggered terms for city legislative body members may be established or abolished only by popular vote under the provisions of Section 31 of this Act.

(2) If staggered terms for legislative body members are adopted, the length of terms shall be determined in the following manner: subsequent to the election of legislative body members in that same election or in the next regular election but prior to their taking office, it shall be determined that half of the legislative body shall serve a term of two (2) years and half shall serve a term of one (1) year and the determination shall be made by drawing lots. At each subsequent regular election, elections shall be held for half the seats on the city legislative body.

(3) If staggered terms for legislative body members are abolished, the length of terms shall be established in the following manner: At the next regular election, the half of the legislative body to be elected shall be elected for one (1) year terms.

(4) No city which changes either to or from staggered terms for legislative body members under this section shall again change sooner than five (5) years from the effective date of the last change.

SECTION 31. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Any public question authorized by statute may be submitted to the voters of a city by either a resolution of the city legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out in full the matter to be considered. The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the effect or impact of the proposal.

(2) Any five (5) qualified voters of the city may commence petition proceedings by filing with the county clerk an affidavit stating they constitute the petition committee and will be responsible for circulating the petition and filing it in proper form. The affidavit shall state their names and addresses and specify the address to which all notices to the committee are to be sent. It shall set out in full the proposal to be considered by the voters. Promptly after the affidavit of petition committee is filed, the county clerk shall notify the petition committee of all statutory requirements for petitions under this section and shall deliver a copy of the affidavit to the legislative body of the city.

(3) All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall be signed by registered voters of the city equal in number to at least twenty-five percent (25%) of the total number of votes cast in the city in the last presidential election. When it is filed, each sheet of a petition shall have an affidavit executed by the circulator stating that he personally circulated the sheet, the number of signatures thereon, that all signatures were affixed in his presence, that he believes them to be the genuine signatures of registered voters in the city and that each signer had an opportunity before signing to read the full text of the proposal. Petitions shall contain or have attached throughout their circulation the full text of the proposal.

(4) Within thirty (30) days after the petition is filed, the county clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective and shall send a copy to the petition committee and to the city legislative body by registered mail. A petition certified insufficient for lack of the required number of valid signatures may be amended once, if the petition committee files a notice of intention to amend it with the county clerk within five (5) days after receiving the copy of his certificate and files a supplemental petition upon additional sheets within thirty (30) days after receiving the certificate. The supplemental petition shall comply with the requirements of subsection (3), and within ten (10) days after it is filed, the county clerk shall complete a certificate as to the sufficiency of the petition as amended and promptly send a copy of the certificate to the petition committee and to the city legislative body by registered mail.

(5) A final determination as to the sufficiency of a petition shall be subject to review in the circuit court of the county and shall be limited to the validity of the county clerk's determination. A final determination of insufficiency shall not prejudice the filing in accordance with this section of a new petition for the same purpose.

(6) Upon receipt of a resolution requesting that the question be submitted to the voters or upon certification of a petition as sufficient, the county clerk shall place upon the city ballot for the next regular election that is held not earlier than ninety (90) days after receipt of the resolution or the certification of the petition the question to be submitted to the voters, which question shall be "Are you in favor of the proposal entitled-----? Yes---- No---." The county clerk shall cause to be published in accordance with KRS Chapter 424, at the same time as the sample ballot, the full text of the proposal. The county clerk shall cause to be posted in each polling place one (1) copy of the full text of the proposal.

(7) The provisions of general election law shall apply to public questions submitted to voters under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor and the certificate shall be entered upon the records of the city at the next regular meeting of the city legislative body.

SECTION 32. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the mayor-council plan and this section shall, together with Sections 20 to 31 and 36 of this Act, govern any city declared to be under the mayor-council plan by Section 21 of this Act or which has adopted the mayor-council plan pursuant to Section 35 of this Act.

(2) Each city under this section shall be governed by an elected executive who shall be called mayor and by an elected legislative body which shall be called the city council and by such other officers and employes as may be provided for by statute or city ordinance.

(3) The executive authority of the city shall be vested in and exercised by the mayor. The mayor shall enforce the mayor-council plan, city ordinances and all applicable statutes. He shall supervise all departments of city government and the conduct of all city officers and employes under his jurisdiction and shall require

each department to make reports to him required by ordinance or as he deems desirable. The mayor shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The mayor shall report to the council and to the public on the condition and needs of city government, as he finds appropriate or as required by ordinance, but not less than annually. He shall make any recommendations for actions by the council he finds in the public interest.

(4) Subject to disapproval of the council, the mayor shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Upon promulgation or upon revision or rescission of the procedures, copies shall be filed with the person responsible for maintaining city records, as provided under Section 25 of this Act.

(5) The mayor shall preside at meetings of the council. The council may set by ordinance the manner in which one (1) of its number may be selected to preside at meetings of the council in place of the mayor. The mayor may participate in council proceedings, but shall not have a vote, except that he may cast the deciding vote in case of a tie.

(6) All ordinances adopted by the council shall be submitted to the mayor, who shall within ten (10) days after submission either approve the ordinance by affixing his signature or disapprove it by returning it to the council, together with a statement of his objections. No ordinance shall take effect without the mayor's approval, unless he fails to return it to the council within ten (10) days after receiving it or unless upon reconsideration of the ordinance not later than the second regular meeting following its return, by the affirmative vote of one (1) more than a majority of the membership, the council votes to over-ride the mayor's veto.

(7) Any delegation of the mayor's power, duties or responsibilities to subordinate officers and employes and any expression of his official authority to fulfill executive functions shall be made by executive order. Executive orders shall be sequentially numbered by years and shall be kept in a permanent file.

(8) All bonds, notes, contracts and written obligations of the city shall be made and executed by the mayor or his agent designated by executive order.

(9) The mayor shall be the appointing authority with power to appoint and remove all city employes, except as tenure and terms of employment are protected by statute, ordinance or contract and, except for employes of the legislative body.

(10) The mayor shall provide for the orderly continuation of the functions of city government at any time he is unable to attend to the duties of his office by delegating responsibility for any function to be performed in accordance with subsection (7), provided that, approving ordinances or promulgating administrative procedures may only be delegated to an elected officer. With approval of the council, the mayor may rescind any action taken in his absence under this subsection within thirty (30) days of such action. If for any reason the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the council and the provisions of Section 23 of this Act shall apply.

(11) The legislative authority of the city shall be vested in and exercised by the elected legislative body of the city which shall be known as the city council. The council shall not perform any executive functions except those functions assigned to it by statute. Regular meetings of the council shall be held at least once each month at such times and places as are fixed by ordinance. Special meetings of the council may be called by the mayor or upon written request of a majority of the council. In the call, the mayor or council shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of council members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 25 of this Act and by the officer presiding at the meeting.

(12) The council shall by ordinance establish all appointive offices, the duties and responsibilities of those offices and codes, rules and regulations for the public health, safety and welfare. The council shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(13) The council shall have the right to investigate all activities of city government. The council may require any city officer or employe to prepare and submit to it sworn statements regarding the performance of his official duties. Any statement required by the council to be submitted or any investigation undertaken by the council, if any office, department or agency under the jurisdiction of the mayor is involved, shall not be submitted or undertaken, unless and until, written notice of the council's action is given to the mayor. The mayor shall have the right to review any statement before submission to the council and to appear personally or through his designee on behalf of any department, office or agency in the course of any investigation.

(14) The council or its members shall deal with city officers and employes who are subject to the direction and supervision of the mayor solely through the mayor or his agent designated by executive order, and neither the council nor its members shall give orders to any such officer or employe either publicly or privately.

SECTION 33. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the commission plan and this section shall, together with Sections 20 to 31 and 36 of this Act, govern any city declared to be under the commission plan by Section 21 of this Act or which has adopted the commission plan pursuant to Section 35 of this Act.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the city commission and by such other officers and employes as may be provided for by statute or city ordinance.

(3) All legislative, executive and administrative authority of the city shall be vested in and exercised by the commission. The commission shall enforce the commission plan, ordinances of the city and all applicable statutes. The commission shall maintain liaison with related units of local government respecting interlocal contracting and joint activities. The commission shall supervise all departments of city government and the conduct of all city officers and employes under its jurisdiction and may require each department to make such reports to it as it finds necessary. The commission shall report to the public on the condition and needs of the city government as provided by ordinance, but not less than annually.

(4) The mayor shall preside at all meetings of the commission and may vote in all proceedings. All bonds, notes, contracts and written obligations of the city authorized by ordinance or resolution shall be executed by the mayor on behalf of the city. The commission shall designate one (1) city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the commission membership, and the provisions of Section 23 of this Act shall apply.

(5) In carrying out its duty to supervise the departments of city government and the conduct of all city officers and employes under its jurisdiction, the commission may require any city officer or employe to prepare and submit to it sworn statements regarding the performance of his official duties.

(6) All administrative and service functions of the city shall be classified under departments created by ordinance, which shall prescribe the functions of the department and the duties and responsibilities of the department head and his employes. The commission shall, at its first regular meeting in each year, designate the commission member to have superintendence over each department established under this subsection, except the commission may delegate responsibility for overall supervision of any or all departments to a city administrative officer established pursuant to Section 28 of this Act.

(7) Regular meetings of the commission shall be held at least once a month, at such times and places as are fixed by ordinance. Special meetings may be called by the mayor or two (2) city commissioners. In the call, the mayor or city commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of commission members and for compliance with KRS Chapter 61. At a special meeting no business may be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 25 of this Act and by the officer presiding at the meeting.

(8) The commission shall by ordinance establish all appointive offices and the duties and responsibilities of those offices, codes, rules and regulations for the public health, safety and welfare. The commission shall by ordinance provide for sufficient revenue to operate city government and shall appropriate such funds in a budget which shall provide for the orderly management of the city's resources. The commission shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance.

SECTION 34. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) The form of government provided in this section shall be known as the city manager plan and this section shall, together with Sections 20 to 31 and 36 of this Act, govern any city declared to be under the city manager plan by Section 21 of this Act or which has adopted the city manager plan pursuant to Section 35 of this Act.

(2) Each city under this section shall be governed by an elected officer who shall be called mayor and by elected legislative body members who shall be called city commissioners and which together shall be known as the board of commissioners and by such other officers and employes as may be duly appointed according to statute or city ordinance.

(3) The legislative authority of the city shall be vested in and exercised by the board. The board shall not perform any executive functions, except those functions assigned to it by statute. The mayor shall preside at all meetings of the board and may vote in all proceedings. The mayor shall be recognized as the head of the

city government by the governor for purposes of military law, but shall have no regular administrative duties. The board shall designate one (1) city commissioner to serve as mayor pro-tem. The mayor pro-tem shall act for the mayor whenever the mayor is unable to attend to the duties of his office and he shall then possess all rights, powers and duties of mayor. If the disability of the mayor to attend to his duties persists for sixty (60) consecutive days, the office of mayor may be declared vacant by a majority vote of the board membership and the provisions of Section 23 of this Act shall apply.

(4) Regular meetings of the board shall be held at least once each month, at such times and places as are fixed by ordinance. Special meetings of the board may be called by the mayor or upon written request of two (2) city commissioners. In the call, the mayor or commissioners shall designate the purpose, time and place of the special meeting with sufficient notice for the attendance of board members and for compliance with KRS Chapter 61. At a special meeting no business shall be considered other than that set forth in the designation of purpose. The minutes of every meeting shall be signed by the person responsible for maintaining city records provided under Section 25 of this Act and the officer presiding at the meeting.

(5) The board shall by ordinance establish all appointive offices, the duties and responsibilities of those offices, codes, rules and regulations for the public health, safety and welfare. The board shall by ordinance provide for sufficient revenue to operate city government and shall appropriate the funds of the city in a budget which shall provide for the orderly management of city resources.

(6) The board may require any city officer or employe to prepare and submit to it sworn statements regarding the performance of his official duties and may otherwise inquire into the conduct of duties of any department, office or agency of the city.

(7) The board shall in accordance with Section 27 of this Act create the office of city manager and set qualifications for the office, which shall include but not be limited, to professional training or administrative qualifications with special reference to actual experience in or knowledge of accepted practice regarding duties of the office, and list duties and responsibilities of the office which shall include, but not be limited to:

(a) Appointing and when necessary for the good of the service, removing all subordinate officers and employes of the city, except those employes whose tenure and terms of employment are protected by statute, ordinance or contract;

(b) Preparing the budget and submitting it to the board and being responsible for its administration after adoption;

(c) Preparing and submitting to the board, as of the end of each fiscal year, a complete report on the finances and administrative activities of the city for the preceding year;

(d) Keeping the board advised of the financial condition and future needs of the city and making recommendations as he deems desirable;

(e) Maintaining liaison with related units of local government respecting interlocal contracting and joint activities;

(f) Supervising all departments of city government and the conduct of all city officers and employes under his jurisdiction and requiring each department to make reports to him required by ordinance or as he deems desirable; and

(g) Performing other duties required of city executive authorities by statute or required of him by the board not inconsistent with this section.

(8) The board shall appoint a city manager by a majority vote of all its members. The city manager shall be appointed for an indefinite term and the board may remove him only by a majority vote of all its members. At least thirty (30) days before such removal shall become effective, the board shall by a majority vote of all its members adopt a preliminary resolution stating the reasons for his removal. The city manager may reply in writing and may request a public hearing which shall be held not earlier than twenty (20) days nor later than thirty (30) days after the filing of the request. After the public hearing, if requested, and after full consideration, the board by majority vote of all its members may adopt a final resolution of removal. By the preliminary resolution the board may suspend the city manager from duty, but shall in any event cause to be paid to him any unpaid balance of his compensation and compensation for the next calendar month following adoption of the preliminary resolution.

(9) The city manager shall be the chief administrative officer and head of the executive branch of the city government. He shall enforce the city manager plan, city ordinances and all applicable statutes. Subject to approval of the board, the city manager shall promulgate procedures to insure orderly administration of the functions of city government and compliance with statute or ordinance. Any delegation of the city manager's duties or responsibilities to subordinate officers and employes shall be made by administrative order. Administrative orders shall be sequentially numbered by years and kept in a permanent file. All bonds, notes, contracts and written obligations of the city according to ordinance or resolution shall be made and executed by the city manager on behalf of the city.

(10) Neither the board nor any of its members shall direct or request the appointment of any person to, or his removal from, office by the city manager or in any way take part in the appointment or removal of officers and employes in the administrative service of the city. Except for the purpose of inquiry and

investigation, the board and its members shall deal with the administrative service solely through the city manager and shall not give orders to any subordinates of the city manager, either publicly or privately.

(11) The board of any city declared to be under the city manager plan by Section 21 of this Act may, not later than six (6) months from the effective date of this Act, by ordinance choose to be organized and governed under the commission plan provided in Section 33 of this Act. The ordinance shall set an effective date for the change to the commission plan which shall not be later than one (1) year from the effective date of this Act. All ordinances and resolutions in force at the time of the change and not in conflict with Section 33 of this Act shall remain in force until changed.

SECTION 35. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) Any city may become organized and governed under either the mayor-council plan, the commission plan or the city manager plan only by popular vote in accordance with Section 31 of this Act, except as provided in subsection (11) of Section 34 of this Act.

(2) If a majority of the votes cast are in favor of changing the organization and government of the city, the corporate entity of the city shall remain the same as it was before the change. All laws applicable to and governing cities and not inconsistent with the newly adopted plan shall continue to apply to and govern each city that so changes its plan. All city ordinances and resolutions in force in any such city and not inconsistent with the newly adopted plan shall continue in force until amended or repealed in the manner provided in the new plan.

(3) Upon the expiration of the terms of the existing legislative body members, or if terms are staggered, when the terms of a sufficient number of members have expired to achieve a correct number of members remaining, or upon election of a sufficient number of additional members at the next regular election to achieve a correct number of members, the city shall be organized and governed under the newly adopted plan, as provided in this chapter, and the city shall take action necessary to be in compliance with this chapter. In no event shall a city not be in compliance two (2) years after the adoption of the new plan by the voters.

(4) Failure on the part of any ministerial officer to perform the duties required of him by this section shall not prevent the change of the plan of organization and government of the city.

(5) No city which changes the plan under which it is organized and governed pursuant to this section shall again change the plan sooner than five (5) years from the effective date of the last change.

SECTION 36. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

(1) In any city which has required nonpartisan city elections under the provisions of Section 24 of this Act, no person shall be elected to city office except as provided in this section.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election, to be held at the time prescribed by law for primary elections generally. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, at least fifty-five (55) days before the primary election, file with the county clerk a petition signed by at least one percent (1%) of the registered voters in the city, in the following form:

"We the undersigned, qualified voters of the City of--------request that the name of--------be placed on the voting machine and special ballot as that of an applicant for nomination for the office of--------at the primary election to be held in our city on the first Tuesday after the fourth Monday in May,----. We know the applicant to be a qualified voter of the city and a person of good character, and he is, in our judgment, qualified for the duties of the office.

Name	Number	Street
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The petition shall be verified by the affidavit of some person as to the genuineness of signatures and addresses of the signers. No voter shall sign more than one (1) petition with reference to each applicant. If any voter signs more than one (1) petition of an applicant, the name of that voter shall not be counted as valid on any petition.

(4) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424, the names of the applicants as they will appear upon the primary ballot labels and special ballots, and thereupon shall cause the primary ballot labels and special ballots to be printed.

(5) Subsection (4) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled. In that case, the applicants for nomination shall thereby be nominated and no primary election shall be held for that office.

(6) Names of applicants for each nomination shall be placed on the voting machine. Above names of applicants for nomination for all city offices shall be printed the words "vote for one", except above names of applicants for nominations for legislative body member in cities nominating legislative body members at-large shall be printed the words "vote for-----(the number of legislative body members to be elected)." No party designation or emblem of any kind, nor any sign indicating any applicant's political belief or party affiliation shall be used.

(7) Persons qualified to vote at a regular election are qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election is applicable to challenges made at a nonpartisan primary election.

(8) Votes shall be counted as provided in general election laws and the result shall be published as provided in KRS Chapter 424.

(9) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated.

(10) At the regular election following a nonpartisan primary election, names of nominees shall be printed upon ballot labels and special ballots like those used at the nonpartisan primary election, except that regular election ballots shall contain only names of successful nominees.

(11) The nominee receiving the greater number of votes cast for each city office shall be elected.

(12) General election law prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

(13) The city shall pay the costs of nonpartisan city elections only if such elections are held at a time other than prescribed by law for elections generally.

SECTION 37. KRS CHAPTER 89A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative agency" or "agency" means a separate body established by a city legislative body for exercise of any power or function. It does not include any administrative body controlled by other state law;

(2) "Contested case" means a proceeding, including, but not limited to, rate-making and policy-making, in which the legal rights, duties, or privileges of a person are adversely affected;

(3) "Party" means each person or agency named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party;

(4) "Person" means bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(5) "Rule" means each agency statement of general applicability that implements or interprets law or policy, or describes the organization, procedure, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule, but does not include statements concerning only the internal management of an agency which do not affect private rights or procedures available to the public; and,

(6) "Decision" or "order" means an adjudicative disposition, whether affirmative, negative, injunctive, or declaratory in form, of any agency in any matter other than rule-making.

SECTION 38. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) If a city legislative body wishes to establish an administrative agency, it shall do so by ordinance which indicates the title, powers and duties of the agency; the method of appointment and removal, filling vacancies, qualifications, compensation, and terms of members; and other appropriate matters relating to the agency.

(2) An administrative agency may be designated as an agency, authority, board, commission, or by another title, so long as the title is appropriate to its function. If an agency is advisory only, such a designation shall be included in its title.

(3) If a city legislative body wishes to exercise a power or function as a city office pursuant to Section 27 of this Act in lieu of establishing an administrative agency and such power or function affects the legal rights, duties, or privileges of any person adversely, then contested cases shall be subject to appeal to the district court in a de novo proceeding, unless the city legislative body has adopted by reference the provisions of Sections 43 to 48 of this Act for use by that office.

SECTION 39. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Unless otherwise restricted in the ordinance establishing an agency, it may in furtherance of its purposes:

(1) Accept real or personal property, including money, from any public or private source, including the city legislative body;

(2) Establish and collect charges for the use of facilities it controls; and,
(3) Issue revenue bonds and make special assessments pursuant to law.

SECTION 40. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Each agency may maintain accounts separate from other city funds. All moneys belonging to the agency shall be used exclusively for carrying out the purposes of the agency and the purposes of the agency shall be subject to control of the city legislative body and the executive authority.

(2) Each administrative agency shall meet budgeting, accounting and auditing requirements applicable to cities.

(3) Each administrative agency shall keep a complete and accurate record of its proceedings.

SECTION 41. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Within sixty (60) days after the close of each fiscal year, each administrative agency shall make a full report to the city legislative body and the executive authority. The report shall include a financial statement and the general scope of operations of the agency during the preceding fiscal year.

(2) The city legislative body or executive authority may cause the accounts and records of an administrative agency to be examined at any time.

SECTION 42. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) In addition to other rule-making requirements imposed by ordinance, each administrative agency shall:

(a) Promulgate as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information or make submissions or requests;

(b) Promulgate rules of practice setting forth the nature and requirements of all formal and informal procedures, including a description of all forms and instructions used by the agency;

(c) Make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions; and,

(d) Make available for public inspection all final decisions, orders, and opinions.

(2) No agency rule is valid or effective against any person or party nor may it be invoked by the agency for any purpose until it has been approved by the city legislative body and has been made available for public inspection as herein required.

SECTION 43. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice as provided in subsection (2). An agency may issue subpoenas and administer oaths. The provisions of the Kentucky civil rules of procedure shall apply insofar as possible to agency subpoenas, except that an agency shall have no contempt power, and disobedience of a subpoena or a refusal to be sworn or to answer as a witness may be punished as a contempt on application to the district court of the county by the agency or any party.

(2) The notice shall include:
(a) A statement of the time, place, and nature of the hearing;
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
(c) A reference to the particular sections of the statutes, ordinances and rules involved; and
(d) A short and plain statement of the material facts asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the matters being contested. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved.

(4) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(5) The record in a contested case shall include:
(a) All pleadings, motions, and intermediate rulings;
(b) Documentary and physical evidence received or considered;
(c) A statement of matters officially noticed;
(d) Questions and offers of proof, objections, and rulings thereon;
(e) Proposed findings and exceptions;
(f) Any decision, opinion, or report by the officer presiding at the hearing; and,
(g) All staff memoranda or data submitted to the members of the agency in connection with their consideration of the case.

(6) Oral proceedings or any part thereof shall be transcribed on request of any party and payment of costs.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

SECTION 44. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Agencies shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form.

(2) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original.

(3) A party may conduct cross-examinations required for a full and true disclosure of the facts.

(4) Notice may be taken of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

SECTION 45. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

When in a contested case a majority of the members of the agency who are to render the decision have not heard the case or reviewed the record, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who are to render the decision. The proposal for decision shall contain a statement of the reasons therefor and of each issue of fact or law necessary to the proposed decision, prepared by the person who conducted the hearing or one who has reviewed the record. The parties by written stipulation may waive compliance with this section.

SECTION 46. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

A decision or order adverse to a party in a contested case shall be in writing or stated in the record. A decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submitted proposed findings of fact, the decision shall include a ruling upon each material proposed finding. Parties shall be served either personally or by mail with notice of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his attorney of record. The date of service of notice of the decision shall be noted in the record and shall be the date of entry for the purpose of fixing the running of the time for appeal.

SECTION 47. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Unless required for the disposition of ex parte matters authorized by law, members or employes of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. Any such communication shall be noted in the record. An agency member may communicate with other members of the agency, and may have the aid and advice of one (1) or more personal assistants.

SECTION 48. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

(1) A party who has exhausted all administrative remedies available and who is aggrieved by a final decision in a contested case is entitled to judicial review. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable if review of the final decision would not provide an adequate remedy.

(2) Proceedings for review are instituted by filing a petition in the circuit court of the county in which the city is located within thirty (30) days after entry of the decision as defined in Section 46 of this Act. The agency and all adverse parties shall be made parties defendant and copies of the petition shall be served on them. Other parties may intervene in accordance with the rules of civil procedure.

(3) The filing of the petition does not itself stay enforcement of the agency decision. The agency may grant, or the reviewing court may order, a stay upon appropriate terms.

(4) Within thirty (30) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(5) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decisions by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(6) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(7) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

(a) In violation of law;
(b) In excess of the authority of the agency;
(c) Made upon unlawful procedure;
(d) Affected by other error of law;
(e) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
(f) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

SECTION 49. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

The city legislative body by ordinance may reduce or increase an administrative agency's powers and duties, or may transfer powers and duties from one agency to another. The city legislative body may discontinue an administrative agency by ordinance enacted not sooner than thirty (30) days following a public hearing on the proposal, notice of the time, place and purpose of which has been published pursuant to KRS Chapter 424.

SECTION 50. A NEW SECTION OF KRS CHAPTER 89A IS CREATED TO READ AS FOLLOWS:

Administrative agencies subject to the provisions of this chapter but established under pre-existing law shall continue with the same powers and duties without the passage of an ordinance pursuant to Section 38 of this Act, until altered or discontinued as provided in Section 49 of this Act, except that such agencies shall promulgate or repromulgate rules in accordance with the provisions of Section 42 of this Act within two (2) years of the effective date of this Act. On that date all such agency rules which have not been repromulgated shall become ineffective.

SECTION 51. KRS CHAPTER 91A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Act in an official capacity" means to participate directly or indirectly through decision, approval, disapproval, recommendation, influencing the content of any specification or purchasing standard, rendering of advice, investigation, auditing or other involvement in any purchase, proceeding, application, ruling, claim, controversy or other matter of public business.

(2) "Budget" means a proposed plan for raising and spending money for specified programs, functions, activities or objectives during a fiscal year.

(3) "Conflict of interest" means an act of a city officer or employe in an official capacity in a matter in which there is a financial interest possessed by:

(a) Himself or a member of his immediate family;
(b) A business other than a public agency in which he or a member of his immediate family serves as an officer, director, trustee, partner, stockholder, or employe; or
(c) Any other person or business with whom he or a member of his immediate family is negotiating or has an arrangement concerning prospective employment.

(4) "Debt service" means the sum of money required to pay installments of principal and interest on bonds, notes, and other evidences of debt accruing within a fiscal year and to maintain sinking funds.

(5) "Encumbrances" mean obligations in the form of purchase orders or contracts that are chargeable to an appropriation. An obligation ceases to be an encumbrance when paid or when the actual liability is recorded.

(6) "Fiscal year" means the accounting period for the administration of fiscal operations.

(7) "Immediate family" means spouse, children, grandchildren, parents, grandparents, brothers, sisters, and their spouses.

(8) "Purchase" means the procurement of materials, supplies, equipment, goods and services, except for professional services or insurance.

(9) "Sinking fund" means a fund held for the retirement of bonds.

SECTION 52. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall maintain an accounting system for the list of accounts provided in subsection (3) of this section designed to show:

(a) The amount of estimated revenue from each source as specified in the budget ordinance, the amount of revenue collected and the uncollected balance; and

(b) The amount appropriated for each program area in the budget ordinance, the amount of expenditures charged against each appropriation, the encumbrances outstanding against each appropriation and the unencumbered balance to the credit of each appropriation.

(2) The accounting system shall be so designed that the true financial condition of the city can be readily ascertained and it shall be maintained according to generally accepted governmental accounting principles in such a way that all receipts and all expenditures of the city are properly accounted for and that the following objects of expenditures may be readily developed for reporting and auditing purposes:

(a) Personnel costs;

(b) Current operating expenses; and

(c) Capital outlay.

(3) The following list of accounts shall be used in design and maintenance of city accounting systems:

RECEIPTS

Taxes and special assessments
Licenses and permits
Fines, forfeits and other penalties
Rental and interest income
Charges for current services
Sales and compensation for loss of fixed assets
Federal grants and receipts from other agencies
Bond proceeds
Transfers from other funds

EXPENDITURES

General government
Public safety
Streets and public works
Sanitation and waste removal
Health
Welfare
Culture and recreation
Debt service
Reserve for contingencies

SECTION 53. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall operate under an annual budget ordinance adopted and administered in accordance with this section. Notwithstanding any other provision of law, after the effective date of this Act, no city shall expend any funds, regardless of source (including funds derived from bond proceeds, federal, state or private grants or loans, or special assessments), except in accordance with a budget ordinance adopted pursuant to this section.

(2) If in any fiscal year subsequent to a fiscal year in which a city has adopted a budget ordinance in accordance with this section, no budget ordinance is adopted, the budget ordinance of the previous fiscal year shall have full force and effect as if readopted.

(3) The budget ordinance of a city shall cover but one (1) fiscal year, except that any city required to adjust its fiscal year to conform to the fiscal year set out in Section 169 of the Kentucky constitution may utilize for transition purposes a fiscal year of any length not to exceed eighteen (18) months. Any such adjustment shall be completed not later than two (2) years from the effective date of this Act.

(4) Preparation of the budget proposal shall be the responsibility of the executive authority of the city.

(5) The budget proposal shall be prepared in such form and detail as is prescribed by ordinance. The budget proposal shall show estimates of at least the following:

(a) Receipts from all sources, which shall be shown under the receipt accounts listed in subsection (3) of Section 52 of this Act.

(b) Expenditures for all programs, which shall be shown under the expenditure accounts listed in subsection (3) of Section 52 of this Act.

(6) The budget proposal, together with a budget message, shall be submitted to the legislative body not later than thirty (30) days prior to the beginning of the fiscal year it covers. The budget message shall contain an explanation of the governmental goals fixed by the budget for the coming fiscal year; explain important features of the activities anticipated in the budget; set forth the reasons for stated changes from the previous year in program goals, programs, and appropriation levels; and explain any major changes in fiscal policy.

(7) The legislative body shall adopt a budget ordinance making appropriations for the fiscal year in such sums as the legislative body finds sufficient and proper, whether greater or less than the sums recommended in the budget proposal. The budget ordinance may be in any form that the legislative body finds most efficient in enabling it to make the necessary fiscal policy decisions, except it shall be organized so that it will show appropriations and revenues by the accounts listed in subsection (3) of Section 52 of this Act.

(8) The full amount estimated to be required for debt service during the budget year shall be appropriated.

(9) The city legislative body may amend the budget ordinance at any time after the ordinance's adoption, so long as, the amended ordinance continues to satisfy the requirements of this section. A budget amendment shall be required for any of the following purposes:

(a) To permit the appropriation and expenditure of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget ordinance.

(b) To permit the appropriation and expenditure of amounts anticipated to be available from any source and which had not been anticipated in the budget ordinance.

(c) To permit transfers between expenditure accounts listed in subsection (3) of Section 52 of this Act.

(10) Administration and implementation of an adopted budget ordinance shall be the responsibility of the executive authority of the city.

SECTION 54. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall, as soon as practicable and in no event later than two hundred seventy (270) days after the close of each fiscal year, cause each fund and account of the city to be audited by the auditor of public accounts or a certified public accountant or other qualified public accountant. The auditor shall be selected by and shall report directly to the city legislative body.

(2) The city shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:

(a) The audit cover each and every fund and account of the city and be conducted according to generally accepted governmental auditing standards;

(b) The auditor make sufficient tests to determine whether receipts have been collected, accounted for and disbursed in compliance with applicable laws and regulations governing the collection and expenditure of public funds and whether the city is complying with all other legal requirements relating to the management of public funds;

(c) The auditor prepare a typewritten or printed report embodying financial statements and his opinion and comments relating to them;

(d) The audit report reflect for each receipt account, the total receipts by source and for each expenditure account, the total expenditures by object of expenditure;

(e) The auditor express an overall opinion as to whether the statement of receipts and expenditures presents fairly the financial condition of the city or state the reasons why an overall opinion cannot be expressed;

(f) The audit report indicate any matters of noncompliance with law or regulation known to the auditor; and

(g) The auditor present the completed audit to the city legislative body at a regular or special meeting and explain his findings to those present.

(3) Upon receipt of an annual audit, the city shall forward two (2) copies of the audit report to the department for local government.

(4) Upon completion of an annual audit, the city shall publish a summary of the audit in accordance with KRS Chapter 424.

(5) A copy of an annual audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements.

SECTION 55. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The executive authority shall designate as the city's official depositories one (1) or more banks or trust companies within the Commonwealth. The amount of funds on deposit in an official depository shall be fully insured by deposit insurance or surety bonds.

(2) All receipts from any source of city money or money for which the city is responsible shall be deposited in official depositories. All city funds shall be disbursed by written authorization approved by the executive authority, which shall state the name of the person to whom funds are payable, the purpose of the payment and the fund out of which the funds are payable. Each authorization shall be numbered and recorded.

SECTION 56. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Except as limited by statute, cities may impose and collect all taxes allowed by Section 181 of the Kentucky constitution. The power to impose a tax includes the power to impose reasonable penalties for failure to declare tax liability, if required, and to impose penalties and interest for failure to pay taxes when lawfully due. The power to impose a tax also includes the power to provide for its administration.

(2) Taxes may be imposed by cities only by ordinance. The purpose for which each tax is imposed shall be specified in the ordinance and the revenue generated shall be expended for no other purpose than that for which the tax is imposed. Failure to specify the purpose of a tax shall render the ordinance invalid.

(3) Except as provided by KRS 91.150, each city shall impose annually a separate tax levy sufficient to provide for the interest and amortization of each of its general obligation bond issues, and the money so provided shall be accounted for separately and not used for any other purpose.

(4) Cities may provide by ordinance for reasonable differences in the rate of ad valorem taxation within different areas of the same taxing district on that class of property which includes the surface of land. Those differences shall relate directly to differences between nonrevenue-producing governmental services and benefits giving the land urban character, which are available in one (1) or several areas of a taxing district in contrast to other areas of the same taxing district in which those services and benefits are not available.

(5) Any city imposing a license fee or tax upon any insurance company for the privilege of engaging in the business of insurance shall file with the commissioner of insurance a copy of the ordinance which imposes the license fee or tax. Any license fee or tax imposed by a city upon any insurance company shall be based upon a percentage of the premiums received by the company within the preceding tax year for insurance on risks located within the corporate limits of the city, less all premiums returned to policyholders. Any license fee or tax imposed upon a life insurance company may be applied only to premiums from new policies written within the preceding calendar year upon the lives of persons residing within the corporate limits of such city. Such license fee or tax shall be due at the beginning of the tax year. The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than thirty per cent (30%) of the fee or tax collected and remitted to the city or two percent (2%) of the premiums subject to the tax, whichever is less. This collection fee shall be deducted from the tax collected and not be an additional fee against the insured. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in this subsection, together with the collection fee herein may be rounded off to the nearest dollar amount. Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulation promulgated by the department of insurance. Upon written request of the legislative body of any city, at the expense of the requesting city which shall be paid in advance by such city to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city. Wilful failure to properly collect and remit the fee or tax imposed by a city pursuant to the authority granted by this subsection shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(6) No company that pays an ad valorem tax and a franchise tax is required to pay a license tax and no license tax shall be imposed upon or collected from any bank, trust company, combined bank and trust company or combined trust, banking and title business in this state, any savings and loan association whether state or federally chartered or upon income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training, or in any other case where the city or urban-county government is prohibited by statute from imposing a license tax.

(7) Nothing in this section shall be construed to repeal, amend or otherwise affect any statute specifying or limiting tax or fee rates, exempting property from local taxation, fixing a special rate on proper classification or imposing a state tax which is declared in lieu of all local taxation.

SECTION 57. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1)(a) Any city may by ordinance elect to have all city ad valorem taxes, including delinquent taxes, collected by the sheriff of the county. The election shall be effective only if a copy of the ordinance is delivered to the sheriff as soon as practicable, and a copy of the ordinance levying the taxes to be collected is delivered to the county clerk not later than June 30 of the year of the levy.

(b) The county clerk shall place city ad valorem taxes due on the tax bills of owners of property in the city, prepared in accordance with KRS 133.220 and 133.230.

(c) The sheriff shall collect all city ad valorem taxes, including delinquent taxes, in the same manner as county ad valorem taxes, as provided in KRS Chapter 134. The sheriff shall be compensated in an amount calculated to defray additional costs to the sheriff for the services performed, but such amount shall not exceed the rates provided for tax collection by KRS Chapter 134. All procedures provided by KRS Chapter 134 concerning collection of delinquent taxes by counties shall be applicable.

(2) If a city does not elect to have city ad valorem taxes collected by the sheriff as provided in subsection (1) of this section, city ad valorem taxes shall be due and payable at the same time as state and county ad valorem taxes are due and payable, unless otherwise prescribed by ordinance or statute. The city shall establish by ordinance procedures for the collection of ad valorem taxes, which shall specify the manner of billing, the place for payment, discounts, if any, for early payment, penalties and interest for late payment, and other necessary procedures related to ad valorem tax administration.

(3) In cities proceeding under subsection (2) of this section, ad valorem taxes upon real or personal property shall be delinquent if not paid by the date set by ordinance or statute. A lien superior to all other liens, except a lien for state taxes, whether such liens were acquired before or after the maturity of the taxes referred to in this section, shall exist in favor of the city from the date the taxes are due, for the amount of the taxes, interest and penalties, upon all the real and personal property of the delinquent taxpayer. The city may enforce the lien by action in the name of the city in the circuit court. In that action it may also obtain a personal judgment against the delinquent taxpayer for the tax, penalties, interest and costs of the suit.

SECTION 58. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Unless a city has elected to use the annual county assessment for property located within the city as the basis for city ad valorem tax levies, as provided in KRS 132.285, the city legislative body shall provide for the assessment of such property by the city through the adoption of an ordinance which shall:

(a) Assign responsibility for property assessments to an office of the city created under the provisions of Section 27 of this Act.

(b) Provide for a board of equalization and such procedures as are necessary to meet constitutional requirements for due process in any grievance or remedy sought by city taxpayers.

(c) Provide assessment procedures in such detail as necessary to fully safeguard any city ad valorem tax revenues, meet all constitutional requirements for property valuation, due process and equal protection under the law and to insure orderly administration of the assessment process.

(2) If a city elects to provide by ordinance for the assessment of property for ad valorem tax purposes by the city, appeals from the decisions of the city board of equalization shall be taken in the same manner as appeals from decisions of county boards of equalization.

SECTION 59. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Each city shall establish by ordinance procedures for purchases, which shall enable verification and auditing of purchasing records.

(2) All purchases involving the expenditure of more than five thousand dollars ($5,000) shall be advertised for bid pursuant to KRS Chapter 424. The advertisement shall include specifications of quantity and quality or the place where such specifications may be obtained. Bid openings shall be open to the public. Purchases shall be let to the lowest and best bid. All bids may be rejected and the purchase may be readvertised.

SECTION 60. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Before a city officer or employe acts in an official capacity in a matter which embraces a conflict of interest, he shall disclose the interest in the manner prescribed in this section and declare himself unable to act on that matter.

(2) Legislative body members shall disclose any conflict of interest in meetings of the legislative body and such disclosure shall be made a part of the record of the meeting.

(3) Mayors and city managers shall disclose any conflict of interest to the legislative body and the disclosure shall be made a part of the permanent records of the city. The legislative body shall choose the officer they deem to be most qualified to act in the matter in question.

(4) All other city officers and employes shall disclose any conflict of interest, in writing, to the executive authority of the city. The executive authority shall choose the officer or employe he deems to be most qualified

to act in the matter in question or the executive authority may act itself.

(5) Violation of this section by an elected official shall be grounds for removal in accordance with Section 23 of this Act. Violation of this section by any other officer or employe shall be grounds for:

(a) Written warning or reprimand;
(b) Forfeiture of pay without suspension;
(c) Suspension without pay for specified periods of time;
(d) Reduction in grade or pay or both; or
(e) Termination of employment.

SECTION 61. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) If, in any year, the legislative body of a city deems it necessary to incur any indebtedness that cannot be paid without exceeding the income and revenue provided for the city for that year, it shall, by ordinance, order an election by the voters of the city to determine whether the indebtedness shall be incurred and bonds issued therefor. The ordinance shall specify the amount of the indebtedness proposed to be incurred, the purpose, and the amount of money necessary to be raised annually by taxation for an interest and sinking fund. The ordinance shall be published pursuant to KRS Chapter 424. The city shall file a certified copy of the ordinance with the county clerk of the county in which the city is located, at least thirty (30) days prior to the next regular election, and thereupon the county clerk shall cause the question of incurring the indebtedness and issuing bonds to be placed upon the ballots to be used in the city precincts. The election shall be held under the general election laws.

(2) If two-thirds (2/3) of the votes cast on the question are in favor of incurring the indebtedness, the city legislative body may incur the indebtedness and issue bonds of the city, and shall by ordinance provide for the mode of creating and paying the indebtedness. The ordinance shall provide for the levy and collection of an annual tax upon all taxable property within the city, sufficient to pay the interest on the indebtedness and create a sinking fund for the payment of the principal within a period of not more than forty (40) years from the time of incurring the indebtedness. The annual tax shall be levied and collected at the same time as other taxes, and shall be in addition to all other taxes. The proceeds of the tax, when collected, shall be kept in the city treasury as a separate fund, to be inviolably appropriated to the payment of the principal and interest of the indebtedness.

SECTION 62. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) A city may issue bonds pursuant to the provisions of Sections 62 to 74 of this Act to finance any undertaking in furtherance of its purposes.

(2) A city may borrow money and issue revenue bonds under Sections 62 to 74 of this Act pursuant to an ordinance, which shall set forth the proposed undertaking, the amount of the revenue bonds to be issued and the maximum rate of interest. In every instance the ordinance shall provide that the undertaking is being financed under the provisions of Sections 62 to 74 of this Act.

SECTION 63. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) The bonds shall be executed in such manner, and be payable at such time not exceeding forty (40) years from date thereof and at such place or places as the city determines.

(2) The bonds may provide that they or any of them may be called for redemption prior to maturity, under conditions fixed by the city before issuing the bonds.

(3) Any city is authorized to rent or lease any portion of the undertaking to or contract concerning it with any person, partnership, association or corporation either public or private, profit or nonprofit. Notwithstanding any other laws, any such renting, leasing or contracting may be accomplished without the necessity of awarding the lease or contract by advertisement or competitive bidding, provided the city first makes a legislative determination that it is in the best interest of the city to enter into the lease or contract without the necessity for advertisement or competitive bidding; and the lease may provide that the lessee is permitted or obligated to sublease the undertaking or any portion thereof for the purpose of accomplishing the creation, improvement, revitalization, renewal or modernization of a central business or shopping community.

(4) A city is hereby empowered to accept donations or gifts to the undertaking from any source and to accept appropriations and grants to the public project from the federal government or any agency thereof and appropriations from the state or any county, city or other political subdivision and, at the option of the city to pledge such donations, gifts or appropriations to the payment of revenue bonds issued to finance the cost of the undertaking.

SECTION 64. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Bonds issued pursuant to Sections 62 to 74 of this Act shall be negotiable and shall not be subject to taxation. If any officer whose signature or countersignature appears on the bonds or coupons ceases to be such officer before delivery of the bonds, his signature or countersignature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until delivery. The bonds shall be sold in such a manner and upon such terms as the city deems best, or any contract for the acquisition of an undertaking may provide that payment shall be made in such bonds. The bonds shall be payable solely from the revenue derived from the undertaking or other revenue as provided in Section 65 of this Act and shall not constitute an indebtedness of the city within the meaning of the constitution. It shall be plainly stated on the face of each bond that it has been issued under the provisions of Sections 62 to 74 of this Act and that it does not constitute an indebtedness of the city within the meaning of the constitution.

SECTION 65. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Prior to the issuance of the bonds, provision shall be made by ordinance for the creation of a separate and special fund or account of the city, identified as constituting the source of payment of principal and interest, and as provided by Section 68 of this Act, costs of maintenance, operation and depreciation. The fund shall by covenant be continued so long as any of the bonds remain outstanding and unpaid. By the provisions of the ordinance the city may pledge and covenant that it will cause to be set aside and deposited in the separate and special fund, moneys received from any or all of the following sources, subject to the following conditions and limitations:

(1) If the undertaking will produce direct revenues in the form of rents, royalties, fees, assessments, rates or charges of any character, including any payments to the city in lieu of property taxes, but not property taxes themselves, all or any portion therof may be so pledged; but it shall not be a condition or requirement in the issuance of revenue bonds that such revenues be anticipated at all, nor that they be sufficient in themselves to provide for the payment of principal and interest when scheduled to become due.

(2) If the undertaking in the opinion of the legislative body of the city will cause the project to produce no direct revenues, or to produce direct revenues insufficient to give acceptable assurance of payment of principal and interest when scheduled to become due, then:

(a) The city may pledge and covenant that it will cause to be deposited in the special fund any revenues under control of the legislative body which may be derived from any municipally owned and operated water, electric, gas, sewer or other utility system, or from any combination thereof, to the extent such revenues at the time may be or become surplus to the necessary costs of operating and maintaining such utility system or systems and surplus to any existing contractual commitments of the city to the holder or holders of outstanding revenue bonds payable from such revenues;

(b) If the legislative body of the city should make a legislative finding of fact, as recited in the body of the ordinance authorizing issuance of the bonds, that the undertaking is of such nature as to provide increased revenues to the city by reason of increased employment and resulting increased receipts from occupational license fees or occupational license taxes, then the city may pledge and covenant that it will cause to be deposited in the separate and special fund the receipts which may be definitely identified as accruing from such occupational license fees or taxes by reason of employment in or directly related to the undertaking, less a proportionate part of the costs of collecting such fees or taxes; and

(c) The city may pledge and covenant that it will cause to be deposited in the special fund any other specifically identified revenue of the city to the extent that the constitution permits.

(3) In the case of revenues originating from any of the sources and in the respective manners set forth in paragraphs (a), (b), and (c) of subsection (2) of this section, the city may covenant and pledge that such revenues, or a stipulated amount or portion thereof, will be set aside and deposited in the special fund when, as and if received; that as to any city-owned utility system, the revenues of which are pledged, the rate or schedule of rates prevailing at the time revenue bonds are issued will not be reduced so long as any of the bonds remain outstanding and unpaid, and in the case of a pledge of revenues of a city-owned utility system or combination of utility systems, that the city will not sell or otherwise dispose thereof without making provision for payment of the revenue bonds from the proceeds of such sale or other disposition, due regard being given to the priority of any previously issued bonds which are payable from such revenues.

SECTION 66. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

All money received from the bonds shall be applied solely for the acquisition, construction, maintenance or improvement of the undertaking and the necessary expense of preparing, printing and selling the bonds, or to advance the payment of the interest on the bonds during the first three (3) years following the date of the bonds, or to provide an initial debt service reserve; and the proceeds of the bonds may be supplemented by contributions from the issuing city or from any other source toward the cost of construction of the undertaking or toward the creation of a debt service reserve for the protection and benefit of the bondholders, or for any other purpose related to the financing of the acquisition and construction of the undertaking, and it may be further provided that any contribution made for the purpose of assisting in the initial establishment of a debt service reserve for the benefit and protection of the bondholders may be returned or reimbursed to the contributor thereof whenever other equivalent funds have been provided from the revenues of the undertaking or from any other source toward the establishment of the debt service reserve.

SECTION 67. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) If there is any default in the payment of principal or interest of any bond, any court having jurisdiction of the action may appoint a receiver to administer the undertaking with power to charge and collect rents, royalties, fees, rates and charges and to receive any other available revenue sufficient to provide for the payment of any bonds or obligations outstanding against the undertaking and for the payment of operating expenses, and to apply the income and revenue in conformity with Sections 62 to 74 of this Act and the ordinance referred to in Section 62 of this Act.

(2) Notwithstanding any of the other provisions of Sections 62 to 74 of this Act, it may be provided in the proceedings authorizing bonds issued for the purpose of financing an undertaking that the city in connection with the issuance of its bonds, execute a mortgage deed of trust in favor of a trustee on property acquired or constructed through the application of the proceeds of the bonds, providing that in the event of default by the city in the payment of interest or principal of its bonds or in the event of default of any other covenant contained in such mortgage deed of trust the trustee, upon behalf of the bondholders, may institute and carry through foreclosure proceedings, with the property secured by the mortgage deed of trust put up for sale on foreclosure proceedings, the proceeds of the sale to be used for the benefit of the bondholders. In connection with such plan of financing, such provisions may be inserted in the bonds themselves and in the mortgage deed of trust.

SECTION 68. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The ordinance prescribed by Section 65 of this Act shall definitely fix and determine the amount of revenue necessary to be set apart and applied to the payment of principal and interest of the bonds, and the proportion of the balance of the income and revenue to be set aside as a proper and adequate depreciation account, and the remaining proportion of such balance shall be set aside for the reasonable and proper operation and maintenance of the undertaking. The rents, royalties, fees, rates and charges for the services or sales of property of the undertaking shall be fixed and revised from time to time so as to be sufficient to provide for payment of interest upon all bonds, to amortize the principal, and to provide for operation, maintenance and depreciation.

SECTION 69. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

If a surplus is accumulated in the operating and maintenance accounts equal to the cost of maintaining and operating the undertaking during the remainder of the calendar, operating or fiscal year, and during the succeeding like year, any excess over such amount may be transferred at any time by the city to the depreciation account to be used for improvements, extensions or additions to the undertaking.

SECTION 70. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The funds accumulating to the depreciation account shall be expended in balancing depreciation in the undertaking or in making new constructions, extensions or additions thereto. Any such accumulations may be invested as the governmental agency may designate, and if invested, the income from such investment shall be carried into the depreciation account.

SECTION 71. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The city may issue new bonds to provide funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by Sections 62 to 74 of this Act. The new bonds shall be secured to the same extent and shall have the same source of payment as the bonds refunded.

SECTION 72. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

If the city finds that the bonds authorized will be insufficient to accomplish the purpose desired, additional bonds may be authorized and issued in the same manner.

SECTION 73. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Any city acquiring any undertaking pursuant to the provisions of Sections 62 to 74 of this Act may at the time of issuing the bonds for the acquisition, provide for additional bonds for extensions and permanent improvements to be placed in escrow and to be negotiated from time to time as proceeds for that purpose may be necessary. Bonds placed in escrow shall, when negotiated, have equal standing with bonds of the same issue.

SECTION 74. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Any city may use, for the purpose of acquiring, constructing, maintaining, extending or improving an undertaking, or for the payment of interest or principal on any revenue bonds issued by the city pursuant to Sections 62 to 74 of this Act, any funds or tax revenues available for general purposes of the city and not required by law to be devoted to some other purpose.

SECTION 75. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Sections 61 to 74 of this Act shall become applicable upon the effective date of this Act, except that if a city has begun negotiations and other procedures for issuance of bonds under statutes repealed by this Act, the issuance of the bonds shall be governed by those statutes until the retirement of the bonds.

SECTION 76. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

A city may not finance any improvement through special assessments except in accordance with Sections 76 to 85 of this Act, or other statutory authority.

SECTION 77. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

As used in Sections 76 to 85 of this Act, unless the context otherwise requires:

(1) "Improvement" means construction of any facility for public use or services or any addition thereto, which is of special benefit to specific properties in the area served by such facility;

(2) "Property" means any real property benefited by an improvement;

(3) "Special assessment" or "assessment" means a special charge fixed on property to finance an improvement in whole or in part;

(4) "Fair basis" means assessed value basis, front foot basis, square foot basis or benefits received basis;

(5) "Assessed value basis" means the apportionment of cost of an improvement according to the ratio the assessed value of individual parcels of property bears to the total assessed value of all such properties;

(6) "Front foot basis" means the apportionment of cost of an improvement according to the ratio the front footage on the improvement of individual parcels of property bears to such front footage of all such properties;

(7) "Square foot basis" means the apportionment of cost of an improvement according to the ratio the square footage of individual parcels of property bears to the square footage of all such property;

(8) "Benefits received basis" means the apportionment of cost of an improvement according to equitable determination by the city legislative body of the special benefit received by property from the improvement, including assessed value basis, front foot basis, and square foot basis, or any combination thereof, and may include consideration of assessed value of land only, graduation for different classes of property based on nature and extent of special benefits received, and other factors affecting benefits received; and

(9) "Cost" means all costs related to an improvement, including planning, design, property or easement acquisition, and construction costs, fiscal and legal fees, financing costs, and publication expenses.

SECTION 78. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) A city may finance the cost of an improvement in whole or part by special assessments made as provided in Sections 76 to 85 of this Act.

(2) Cost of an improvement shall be apportioned equitably on a fair basis.

(3) The city may provide for lump sum or installment payment of assessments or for bond or other long-term financing, and, for any improvement, may afford property owners the option as to method of payment or financing.

SECTION 79. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Property owned by the state, a local unit of government or any educational, religious, or charitable organization shall be assessed to the extent it is found to be benefited as other property is benefited.

SECTION 80. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Before undertaking any improvement pursuant to Sections 76 to 85 of this Act, the city shall prepare a comprehensive report setting out:

(1) The nature of the improvement;

(2) The scope and the extent of the improvement, including the boundaries or other description of the area to be assessed;

(3) The preliminary estimated cost of the improvement;

(4) The fair basis of assessment proposed;

(5) If financing of assessments is provided, the proposed method, including the proposed years to maturity of any bonds to be issued in connection with the improvement; and

(6) Such other information as may further explain material aspects of the improvement, assessments, or financing.

SECTION 81. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

After preparation of the report required by Section 80 of this Act, the city shall hold at least one (1) public hearing on the proposed improvement at which all interested persons shall be heard. Notice of the hearing shall be published pursuant to KRS Chapter 424, or mailed to each affected property owner, and shall include:

(1) The nature of the improvement;

(2) Description of area of the improvement;

(3) Statement that the city proposes to finance the improvement in whole or in part by special assessment of property and the method to be used;

(4) Time and place the report may be examined; and

(5) Time and place of the hearing.

SECTION 82. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

Within ninety (90) days of conclusion of the hearing, the city shall determine whether to proceed with the improvement by special assessments, and if it determines to proceed, shall adopt a resolution so stating and containing all necessary terms, including the items referred to in Section 80 of this Act and description of all properties. Promptly upon passage of such resolution the city shall mail by certified mail to each affected property owner a notice of determination to proceed with the project, the fair basis of assessment to be utilized, the estimated cost to the property owner, and the ratio the cost to each property owner bears to the total cost of the entire project.

SECTION 83. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days of the mailing of the notice provided for in Section 82 of this Act, any affected property owner may file an action in the circuit court of the county, contesting the undertaking of the project by special assessment, the inclusion of his property in the project, or the amount of his assessment. If the action contests the undertaking of the improvement by the special assessment method or the inclusion of the property of that property owner, no further action on the improvement insofar as it relates to any property owner who is a plaintiff shall be taken until the final judgment has been entered.

(2) The city may proceed with the improvement with respect to any properties whose owners have not filed or joined in an action as provided in this section or who have contested only the amounts of their assessments, and the provisions of the resolution shall be final and binding with respect to such property owners except as to contested amounts of assessments. After the lapse of time as herein provided, all actions by owners of properties shall be forever barred.

SECTION 84. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

(1) After the passage of time for the action provided for in Section 83 of this Act, or after favorable final judgment in any such action, whichever comes later, the city may proceed with the improvement or part thereof as was stayed by the action, including notice requiring payment of special assessment or installment thereon and bonds or other method proposed to finance the improvement. The first installment may be apportioned so that other payments will coincide with payment of ad valorem taxes.

(2) The amount of any outstanding assessment or installments thereof on any property, and accrued interest and other charges, shall constitute a lien on the property to secure payment to the bondholders or any other source of financing of the improvement. The lien shall take precedence over all other liens, whether created prior to or subsequent to the publication of the ordinance, except a lien for state and county taxes, general municipal taxes, and prior improvement taxes, and shall not be defeated or postponed by any private or judicial sale, by any mortgage, or by any error or mistake in the description of the property or in the names of the owners. No error in the proceedings of the city legislative body shall exempt any benefited property from the lien for the improvement assessment, or from payment thereof, or from the penalties or interest thereon, as herein provided.

SECTION 85. A NEW SECTION OF KRS CHAPTER 91A IS CREATED TO READ AS FOLLOWS:

The city may undertake any further proceedings to carry out the improvement or any extension or refinancing thereof, except that Sections 80 to 84 of this Act shall apply if additional property is included in the improvement or if change is made in the method or period of financing; but additional property may be included in the improvement with the consent of the owner thereof without compliance with other sections, if it does not increase the cost apportioned to any other property, or any other change may be made without such compliance, if all property owners of the improvement consent.

Section 86. KRS 65.240 is amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state, and jointly with any public agency of any other state or of the United States to the extent that the laws of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by KRS 65.210 to 65.300 upon a public agency.

(2) Any two (2) or more public agencies may enter into agreements with one another for joint or cooperative action *or for action by one on behalf of another* pursuant to the provisions of KRS 65.210 to 65.300. Appropriate action by ordinance, resolution or otherwise pursuant to law, of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

Section 87. KRS 65.255 is amended to read as follows;

If an agreement entered into under the authority of KRS 65.210 to 65.300 provides for cooperative action in the utilization of [peace] officers *or employes they* [, police department members], while in the performance of their duties under such an agreement outside *the jurisdiction of their public agency* [their own city or county], shall have the *same powers they possess in the jurisdiction of their public agency* [full power of arrest and all other powers they possess in their own city or county] and shall have the same immunities and privileges as if the duties were performed in their own *jurisdiction* [city or county].

SECTION 88. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The governing body of any public agency electing to enter into an agreement authorized by KRS 65.210 to 65.300 may abolish any office or position rendered unnecessary thereby or declare any such office or position vacant during the term of the contract. Any such office occupied by an official elected by the qualified voters of the public agency shall not be abolished or declared vacant before the end of the term of the incumbent.

SECTION 89. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 89 to 91 of this Act, unless the context otherwise requires:

(1) "Abandoned vehicle" means any vehicle or part thereof which is left upon public or private property within a city or county under circumstances indicating a desertion, relinquishment, non-use or divestment so as to indicate a discarded vehicle.

(2) "Junked vehicle" means any vehicle or part thereof which does not have lawfully affixed thereto both an unexpired license plate and a current motor vehicle inspection certificate, which is in an inoperable condition.

(3) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(4) "Public authority" means a police department of a city or county or any other city or county authority so designated by the city legislative body or fiscal court.

SECTION 90. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) No person shall permit an abandoned or junked vehicle to remain upon any public or private property for more than seven (7) days, except that this section shall not apply to a vehicle in an enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of the business enterprise, or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or county.

(2) A violation of this section shall constitute a public nuisance.

(3) Any person who violates this section shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100) or imprisoned not less than ten (10) nor more than thirty (30) days, or both.

SECTION 91. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) Any public authority may abate a nuisance under Section 89 of this Act by removing the vehicle or causing the vehicle to be removed by some person engaged in the business of storing or towing vehicles.

(2) No vehicle shall be removed from private property under subsection (1) until at least fourteen (14) days after notice of the intention to do so has been conspicuously affixed to the vehicle and delivered personally or mailed by certified mail to the owner of such property and the owner of the vehicle. The notice shall contain a description of the vehicle and its location, the intention of the public authority to remove it, the period of time after which it will be removed, and the name, address, and telephone number of the public authority. Such notice shall not be required as to any vehicle or property owner who cannot be located.

(3) The owner and any lienholder of record shall be notified by certified mail within ten (10) days after removal of a vehicle under subsection (1) that it may be redeemed by payment of the costs of removal and

storage within thirty (30) days of the notice. If the owner cannot be located, such notice shall be published pursuant to KRS Chapter 424. Any person incurring costs for towing or storing the vehicle shall have a lien on the vehicle for such costs so long as it remains in his possession.

(4) If a removed vehicle is not redeemed after the procedure of subsection (3) has been followed, it may be sold through bids or by public auction after advertisement pursuant to KRS Chapter 424. Proceeds of sale shall be applied first to satisfy expenses of removal, storage, and sale, and next to satisfy liens. The balance shall be paid to the owner, and if the owner cannot be ascertained, to the general fund of the city or county which caused the removal of the vehicle.

(5) This section shall not limit the authority of any city or county to move, or take possession of, any vehicle which constitutes a safety hazard or which is unlawfully parked.

SECTION 92. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Sections 89 to 91 of this Act are permissive and not mandatory, and do not prohibit cities and counties from taking any constitutionally permissible action regarding vehicles.

Section 93. KRS 67A.060 is amended to read as follows:

(1) Urban-county governments may exercise the constitutional and statutory rights, powers, privileges, immunities and responsibilities of counties and cities of the highest class within the county:

(a) In effect on the date the urban-county government becomes effective;

(b) Which may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) Which may be authorized for or imposed upon urban counties.

(2) Rights, powers, privileges and immunities exercised by urban-county governments pursuant to subsection (1)(a) and (b) of this section shall continue to be authorized for urban-county governments notwithstanding repeal or amendment of the statutes upon which they are based unless expressly repealed or amended for urban-county governments.

(3) In addition to subsections (1) and (2) of this section and any statute which applies to urban-county governments by its terms, all rights, powers, privileges and responsibilities conferred by Sections 18, 19, 25, 31, 37-50, 51-85, 89-92, and 114-120 of this Act upon cities shall be applicable to urban-county governments.

SECTION 94. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the voters in any county containing a city of the first class may reorganize and consolidate any or all units of city and county government into an urban-county form of government. Such reorganization shall take place only after compliance with the procedures set forth in Sections 95 to 98 of this Act.

SECTION 95. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

In a county containing a city of the first class, upon a petition filed with the county clerk and signed by a number of registered voters equal to at least ten percent (10%) of the number of voters of the county voting in the immediate past general election for the office of county judge/executive requesting a referendum be held on the question of adopting the urban-county form of government, within forty-five (45) days a representative commission shall be appointed and formed composed of thirteen (13) citizens of the county which shall devise a comprehensive plan of urban-county government. The county judge/executive and the mayor of the first class city shall jointly appoint one (1) member from each senatorial district located wholly within the county and five (5) members at large, two (2) of whom shall be nominated by an organization substantially representing the remaining cities in the county. The commission shall elect its own chairman. The members appointed shall have a demonstrated interest in and knowledge of reorganization and consolidation of the units of city and county government. The plan shall include a description of the form, structure, functions, powers and officers and their duties of the proposed urban-county government; the procedures by which the original plan may be amended; and such other provisions as the commission shall determine; and shall be consistent with the provisions of the Kentucky constitution.

SECTION 96. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The fiscal court of the county and the legislative body of any city of the first class shall appropriate for the use of the commission sufficient funds, in equal amounts, to carry out the purpose of Sections 94 to 98 of this Act, upon such terms as the fiscal court and the legislative body may provide. The commission may hire staff and contract for necessary services.

SECTION 97. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

The commission shall complete its work and develop a comprehensive plan of urban-county government no later than eighteen (18) months from the date of its formation. The plan shall be advertised at least ninety (90) days before the next general election, at which the voters of the county will be asked to approve or disapprove the adoption of the plan. The ballots shall be counted, returns made and canvassed as in other elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting are in favor of adopting the plan, it shall be implemented. Provided, however, any incorporated area in which it appears a majority of those voting are against adopting the plan, shall be excluded from the urban-county government but the votes from that incorporated area shall be counted in the whole. Such excluded incorporated area, in the event the plan is adopted, shall continue to receive the same services formerly provided to it by the county government. For services thus continued to citizens of cities rejecting the plan, the tax rates levied by the urban-county for such services shall be the same tax rates as those levied on areas accepting the plan and receiving the same services.

SECTION 98. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

Upon the adoption of a plan pursuant to the provisions of Sections 94 to 98 of this Act, the provisions of KRS 67A.030, 67A.050, 67A.060, 67A.080, and 67A.150 shall apply to the plan and the urban-county government. No other provisions of KRS Chapter 67A, now or hereafter enacted, shall apply to such urban-county government, unless specifically designated to apply to an urban-county government in a county containing a city of the first class.

Section 99. KRS 83.345 is amended to read as follows:

(1) The commission established pursuant to subsection (2) of KRS 83.340 shall be composed of *nine (9)* [seven (7)] members to be appointed by the mayor of the largest city in the county and the county judge/executive [, jointly], in the following manner:

(a) Two (2) commissioners from a list submitted by the local city hotel and motel association *jointly appointed.*

(b) One (1) commissioner from a list submitted by the local county hotel and motel association *jointly appointed,* provided that if only one (1) local hotel and motel association exists which covers both the city and county, then three (3) commissioners shall be appointed from a list submitted by it.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations *jointly appointed.*

(d) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county *jointly appointed.*

(e) *Two (2) commissioners by the mayor of the largest city in the county who are residents of the city and who have an interest in the tourist and convention industry.*

(f) Two (2) commissioners by the county judge/executive who are residents of the county and who have an interest in the tourist and convention industry [One (1) commissioner by the mayor of the largest city in the county.

(f) One (1) commissioner by the county judge/executive].

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided, that in making the initial appointments, the mayor and county judge/executive shall appoint *three (3)* [two (2)] commissioners for a term of three (3) years, *three (3)* [two (2)] commissioners for a term of *two (2)* [four (4)] years and three (3) commissioners for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 83.340 to 83.350. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; Provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor and the county judge/executive.

Section 100. KRS 83.520 is amended to read as follows:

As to a city of the first class, the provisions of KRS Chapters 65, 66, 76, 77, 80, 91, 95, 96, 98, 99, 104, 106, 107, 108, and 109, and the provisions of Sections 115, 120 and 126 of this Act [The legislative body of a city of the first class shall have the power to exercise all of the rights, privileges, powers, franchises, including the power to levy all taxes, not in conflict with the Constitution and so as to provide for the health, education, safety and welfare of the inhabitants of the city, to the same extent and with the same force and effect as if the General Assembly had granted and delegated to the legislative body of the city all of the authority and powers that are within its powers to grant to a municipal corporation as if expressly enumerated herein. Nothing therein contained to the contrary, the provisions of chapters 65, 66, 76, 77, 79, 80, 89, 91, 93, 95, 96, 97, 98, 99, 103, 104, 105, 106, 107, 108 and 109] shall be considered permissive rather than mandatory and the powers, rights and duties therein delineated may be modified or delegated by the legislative body to different departments and agencies of city government and any restrictions therein set forth shall not be considered abridging in any manner the complete grant of home rule set forth in this grant of power except no right heretofore vested by operation of statute shall in any way be affected.

SECTION 101. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) In Sections 101 to 111 of this Act, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department or other executive unit.

(b) "Appointing authority" or "removing authority" means the mayor under the mayor-council plan or urban-county government, the city commission under the commission plan, and the city manager under the city manager plan.

(c) "Civil service" means the offices and positions of trust or employment in the service of a city of the second or third class or an urban-county government not specifically excluded by Sections 102 to 111 of this Act.

(d) "Commission" means the civil service commission as established under Section 103 of this Act.

(e) "Competitive examination" means the examination or evaluation described in Sections 103 and 104 of this Act.

(f) "Dismissal" means the discharge of an employe.

(g) "Employe" means any person employed in the conduct of municipal affairs, but unless otherwise provided by ordinance the term shall not include:

1. Officers elected by the voters, and persons appointed to fill vacancies in elective offices;
2. Members of all boards, commissions, authorities and administrative agencies;
3. The city administrative officer or city manager;
4. Heads of executive departments;
5. All administrative assistants appointed by the executive authority; or
6. Temporary or part-time employes.

(h) "Seniority" for purposes of Sections 104, 105, and 107 of this Act refers to length of service as defined by ordinance, but shall in each case include employment by a city prior to the adoption of a civil service system and employment by a city, county or other municipality which has been merged into an urban-county government.

(2) The provisions of Sections 103 to 111 of this Act are independent of and do not affect the laws governing the police and fire departments, nor their pension funds.

SECTION 102. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

A city of the second or third class or urban-county government may by ordinance establish a personnel management unit charged with personnel matters. In the event such a unit is established, the city or urban-county government shall by ordinance delegate to the unit, in addition to its regular functions not related to this statute, the initial performance of all or a part of the functions described as functions of the commission in Sections 103 to 105 and 107 of this Act, but no other sections hereof, except that in any event the decisions of the unit shall be subject to review, amendment or change by the commission. In the case of the certification of lists of eligible applicants for employment such lists may be prepared by the personnel management unit, but shall be submitted to the appointing authority only after approval of the commission; and in respect of all other matters delegated, periodic reports shall be made by the unit to the commission, not less than monthly, and any directions of the commission, or any proposed alterations or changes in the action of the unit shall be promptly complied with by the unit.

SECTION 103. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) Any city of the second or third class adopting a civil service system and any urban-county government shall operate under Sections 103 to 111 of this Act and, by ordinance, create a civil service commission, which shall hold such nondiscriminatory, open examinations or evaluations to determine the relative fitness of applicants for municipal employment within the city or urban-county government as are designated by ordinance. The city or urban-county government shall, by ordinance, create civil service classifications for all employes consistent with the actual work to be performed by such employes.

(2) The mayor, subject to the approval of the legislative body, shall appoint five (5) persons who shall constitute the civil service commission of that city or urban-county government. No appointee shall be related by either blood or marriage to the mayor, or any member of the legislative body. The appointees shall originally be appointed, two (2) for a term of two (2) years and three (3) for a term of four (4) years, and the successors

to these appointees shall be appointed in like manner, each for a period of four (4) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. There shall be chosen by the commission a secretary of the commission. The secretary shall be an employe of the city or urban-county government who is covered by the provisions of Sections 102 to 111 of this Act. Each appointee shall qualify by taking an oath of office as required by law. The salaries, if any, of the members of the commission may be fixed by the legislative body.

(3) If the mayor fails to appoint a civil service commission within ninety (90) days after he has the power to so appoint or after a vacancy exists, the officer who presides in the absence of the mayor, however designated, shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce nondiscriminatory rules, not inconsistent with the provisions of Sections 102 to 111 of this Act, for examinations and registrations therefor.

SECTION 104. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The civil service commission shall prescribe and propound such examinations as are proper, commensurate with vacant positions within the various departments of the city or urban-county government, according to classifications prescribed by ordinance; shall set such times and places for holding examinations as may be proper; shall give public notice of vacancies by publication pursuant to KRS Chapter 424; and shall give actual notice to all eligible applicants of time and place of examinations. The civil service commission may prescribe and propound job descriptions which reasonably establish minimum qualifications and standards for eligibility to take such examinations, but in no event shall such job descriptions be a subterfuge for the evasion of the requirement that employment be determined on the basis of the principles set out herein.

(2) The civil service commission shall, as soon after examinations as is practicable, certify to the appointing authority a list of the eligible applicants. After the compilation of such a list the commission may provide for further, substantially identical examinations, given on the same basis as the original examinations, to supplement the list so compiled, and the results of each such subsequent examination shall be consolidated with the results of the prior examinations to provide an eligible list from among all of those who have taken such examinations.

(3) Every soldier, sailor, marine, member of the air force, army nurse, member of any other branch of military service or Red Cross nurse who served during a period of hostilities between the United States and another power in World War II or the Korean or Vietnam conflict who has not been dishonorably discharged and who is an applicant for any position of civil service of a city or urban-county government shall be entitled to five percent (5%) increase on his examination mark on entrance into civil service employment.

(4) The civil service commission shall certify an eligible list for each position to be filled upon notification by the appointing authority that a vacancy exists.

(5) The legislative body may designate certain civil service positions and prescribe that for such positions the examinations shall first be given exclusively to current employes; provided, however, that if no employe with a minimum of six (6) months seniority achieves a passing grade, an examination shall be held in accordance with subsection (1) of this section.

SECTION 105. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

The civil service commission shall examine all eligible applicants who have been certified and tentatively selected for employment as to their physical and mental qualification for the particular classification wherein they seek employment.

SECTION 106. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

Employes, who at the time the provisions of Sections 103 to 111 of this Act become applicable have been in the employ of the city or the urban-county government, or any city or county or other municipality merged into such urban-county government, (a) for six (6) months last past or (b) having been employed after taking a merit system examination, shall not be required to stand an original examination, and shall be eligible for all the benefits provided by Sections 103 to 111 of this Act.

SECTION 107. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the list of eligible applicants certified by the civil service commission.

(2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list of persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission and if certified by the commission as qualified he may be appointed temporarily to fill the vacancy until an appointment can be made after competitive examination. Temporary appointments hereunder and under subsection (3) of this section shall continue only until a regular appointment can be made from the eligible list prepared by the commission.

(3) In the circumstances described in subsection (2) of this section, when no one on the eligible list, or by promotion from the same class or the next lower rank is available, competent and qualified, a temporary appointment may be made by the appointing authority without examination. In no case shall appointment hereunder or under subsection (2) of this section continue longer than ninety (90) days without the approval of the legislative body. Upon a statement of the reasons, the legislative body may extend the length of such a temporary appointment for a maximum of two (2) additional ninety (90) day periods.

(4) Where the service to be rendered by an appointee in the classified service is for a temporary period as provided herein, the appointing authority shall select for that temporary service a person on the list of those eligible for permanent appointment, if such person accepts such appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

(5) Temporary appointments made by reason of these provisions, made necessary by reason of illness or disability of regular employes, may continue during such period of disability, but shall continue only during such period of disability and in no case longer than nine (9) months. No other temporary appointments other than those provided for herein may be made, except that seasonal appointments may be made for periods not in excess of six (6) months.

(6) Seniority in the level or rank of employment in which the vacancy occurs, and seniority in the level or rank of employment nearest the level or rank in which the vacancy occurs shall each be given material consideration in filling such vacancies as shall occur in the classified civil service. Within six (6) months after adoption of a civil service system by a city of the second or third class, or within six (6) months after the effective date of an urban-county government, there shall be established by ordinance (if not delegated to the commission, or to the personnel management unit charged with personnel matters subject to the control of the commission) a plan which in definite terms complies with this subsection. The plan may be amended from time to time in accordance with the ordinance, but the effective date of any alteration therein shall be no sooner than one hundred eighty (180) days after its adoption. The plan shall provide for and describe in reasonable detail the circumstances, if any, under which the seniority described therein shall be the sole criteria for promotion, and the circumstances in which it will not, and in the latter case, shall provide a reasonably definite method by which applicants shall be entitled to an increase on their examination or evaluation scores by reason of seniority, the relative importance of each type of seniority in the determination, and the percentage increase in the scores for seniority. The circuit court of the county in which the city or urban-county government is located shall have jurisdiction to determine the reasonableness of the plan and alterations thereto and its compliance with the principles set out in this subsection.

(7) In case of vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory reasons stated in writing by the appointing authority the commission may suspend the provisions requiring competitive examination under civil service.

SECTION 108. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) No employe in the classified service of a city of the second or third class or urban-county government, after serving a probationary period provided by ordinance for his class, which shall not be less than six (6) nor more than twelve (12) months, shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law.

(2) Any person may prefer charges in writing against any employe by filing them with the civil service commission. The charges must be signed by the person making them and must set out clearly each charge. Upon the filing of charges the secretary of the civil service commission shall notify its members and serve a copy of the charges upon the accused employe with a statement of the date, place and hour at which the hearing of charges will begin. The hearing shall be held within ten (10) days of the date of the service of charges upon the accused employe, unless all the parties agree in writing otherwise.

(3) The hearing shall be conducted and the record maintained in the manner prescribed in Sections 43 to 47 of this Act.

(4) In cases where the head of the department or executive unit or the appointing authority has probable cause to believe an employe has been guilty of conduct justifying his removal or punishment he may immediately suspend that employe from duty or from both pay and duty pending a hearing and the employe shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(5) The civil service commission shall punish any employe found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employe's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employe shall be reprimanded, removed, suspended or dismissed except as provided in this section

(6) Irrespective of the other provisions of Sections 103 to 111 of this Act, an employe may be suspended by the head of the executive unit in which he is employed, or by the appointing authority, but only as provided by ordinance, for a period not exceeding thirty (30) days in any twelve (12) month period, and may be reprimanded by such head or authority not more than twice in any twelve (12) month period. In such event, the actions of the head or appointing authority shall be subject to appeal to the commission. The appeal shall be filed with the secretary of the commission within ten (10) days of the action of the unit head or appointing authority, and may be reviewed, reduced or revoked by the commission after a hearing in which the unit head or appointing authority shall have reasonable opportunity under rules established by the commission to support his charges. The grounds of suspension or reprimand under this subsection shall be only those set out by ordinance. The commission shall, in the event it finds that the unit head or appointing officer acted in error, take necessary action to compensate the appealing employe for the error including removal of a reprimand from the employe's file or reinstatement with retroactive pay for any period of suspension. An appeal by an employe under this subsection shall suspend the operation of the action of the unit head or appointing authority pending action of the commission.

(7) Nothing herein shall prevent the city or urban-county government from providing additional remedies and rights to employes by ordinance.

SECTION 109. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) Any employe found guilty by the civil service commission of any charge as provided by Section 108 of this Act or whose discipline under subsection (6) of that section has been upheld by the commission may appeal to the circuit court of the county in which the city or urban-county government is located within thirty (30) days after such action becomes final, but the enforcement of the decision of the civil service commission shall not be suspended pending appeal.

(2) An appeal brought under subsection (1) shall be heard in the same manner as prescribed in Section 48 of this Act.

SECTION 110. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body shall fix by ordinance the number and classification of employes, and the salaries for each classification. When the number of employes and their classification has been fixed by ordinance, including any ordinance of a city or other municipality existing prior to the adoption of the urban-county form of government, which prior ordinance is adopted for any period of time by the urban-county government, no employe shall be dismissed, suspended or reduced in grade or pay for any reason except that set out in Section 108 of this Act.

(2) Provided, further, that whenever in the exercise of a reasonable discretion, it shall be the judgment of the legislative body that economic necessity requires it, or that there is no longer a need for a particular office or position to exist, the legislative body may abolish the office or position and any officer or employe occupying the office or position may be laid off or suspended, until and if the office or position is recreated or reestablished. The abolition of any office or position must not be a subterfuge to effect another purpose, but must be actual and bona fide and must not amount to the mere alteration, modification or abolition of title only.

(3) Any officer or employe aggrieved by the abolition or the proposed abolition of an office or position may at any time within ninety (90) days file a petition in the circuit court of the county wherein the city or urban-county government is located, stating his reason why it should not be abolished, and upon issue joined thereon by the city or urban-county government, the burden shall be on the latter to establish the necessity for and the good faith of the city or urban-county government in abolishing the office or position. The right to abolish and the right to have the office or position recreated shall be determined as other equitable actions are determined.

(4) If an office or position is recreated or reestablished within one (1) year, then any person who was deprived of the office or position shall be restored to it in the order of his seniority if he shall elect to do so, and the city or urban-county government shall advise the officer or employe at his last known address and advertise pursuant to KRS Chapter 424 that the office or position has been recreated or reestablished.

SECTION 111. A NEW SECTION OF KRS CHAPTER 90 IS CREATED TO READ AS FOLLOWS:

In cities of the second and third class operating under the provisions of Sections 103 to 111 of this Act and in urban-county governments:

(1) No person shall be appointed to any position because of any political service, contribution, sentiment or affiliation. No employe shall be dismissed, suspended or reduced in grade or pay for engaging in any off duty political activity except as provided in subsection (3) of this section.

(2) No employe shall be forced to pay or collect any assessments made by political organizations or contribute to political campaign funds or participate in a political campaign.

(3) No employe may be a candidate for office of the employing city or urban-county government.

Section 112. KRS 90.990 is amended to read as follows:

Any person who [shall] knowingly, [or wittingly, or] intentionally, or through gross negligence, *violates* [violate] any of the provisions of this chapter [pertaining to cities of the first and second classes], shall be guilty of a misdemeanor, and shall upon conviction thereof be subject to a fine of not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) [, provided, however, that the provisions of this section shall not apply to KRS 90.220].

SECTION 113. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) In KRS 67A.320 to 67A.340, unless the context requires otherwise:

"Pension fund" means the moneys derived from the employes or the levy of a special tax, or any other sum derived from any other source, to be used for the retirement of employes after the prescribed years of service and for the benefit of disabled employes and widows and dependent children in the case of death of an employe within the scope of his employment according to the terms of KRS 67A.320 through 67A.340, the comprehensive plan, or the ordinances of the urban-county government, including retirement systems adopted pursuant to law.

(2) Seniority and length of service for purposes of KRS 67A.320 and 67A.330 shall be in accordance with rules established by the comprehensive plan or ordinance, but shall in each case include service or seniority obtained under pension plans described in such sections existing in municipalities prior to the adoption of urban-county government, and shall in no case give credit to any service or seniority except in respect to such prior service in municipalities having such pension plans, or under urban-county governments, except that the urban-county government may purchase credits in lieu of seniority, the cost thereof being determined by the trustees of the pension fund, in accordance with sound actuarial principles, for employes whose seniority or length of service was under municipalities other than those described herein.

(3) The provisions of KRS 67A.320 to 67A.340 do not affect the laws governing the police and fire department pension funds.

SECTION 114. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Qualified police of any city shall be peace officers of the city and the state and may execute process and make arrests anywhere in the county in which the city is located, except in cities of the fifth and sixth class located in a county containing a city of the first class, wherein the jurisdiction of the police shall be limited to the territory within the city limits.

SECTION 115. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Qualifications for city police and fire fighters shall be set by ordinance and shall include, but not be limited to, the following:

(a) Age of at least 21 years;
(b) Citizenship in the United States;
(c) Residence in the Commonwealth of Kentucky;
(d) Graduation from an accredited high school or the equivalent of such graduation; and
(e) No conviction of a felony.

City police and fire fighters employed prior to the effective date of this Act shall remain qualified for city employment, provided they remain employed by the same city with no break in service.

(2) City police shall as a minimum successfully complete within one (1) year of the effective date of this Act or date of employment, whichever is later, a practical police training course of at least eighty (80) hours duration which need not be continuous conducted or certified by the department of justice in order to remain qualified for employment as a police officer. Police who fail to comply with this subsection within the one (1) year specified shall not thereafter have the powers of a peace officer until so qualified.

(3) Police who comply with subsection (2) shall remain qualified to possess the powers of a peace officer so long as they remain employed by the same city with no break in service. Candidates for employment as police who have complied with subsection (2) within five (5) years prior to the date of subsequent employment shall remain qualified to have the powers of a peace officer so long as they remain employed by the same city with no break in service.

SECTION 116. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Cities may appoint citation officers who shall have qualifications as prescribed by ordinance and who shall not have powers of peace officers to arrest or carry weapons, but may issue citations as authorized by ordinance or statute.

(2) The procedure for citations issued by a citation officer shall be as provided in KRS 431.015.

SECTION 117. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Each member of the police force of a city shall take an oath to uphold the United States constitution, the Kentucky constitution, the laws of the Commonwealth, and the ordinances of the city, and to faithfully discharge the duties of his office.

SECTION 118. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

No member of a city police force or fire department shall be liable to arrest on civil process while on duty.

SECTION 119. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Each city shall establish by ordinance procedures for the security, proper accounting and disposition of all property taken into the custody of the police department. The procedures shall include adequate due process provisions to protect rights of property owners and shall be consistent with the provisions of the Kentucky penal code. The proceeds from any sale of such property by the city shall be paid into the fund from which police pensions are paid, if any, and otherwise into the general fund of the city.

SECTION 120. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 90.220, no person shall be appointed a member of the police or fire department in a city on account of any political service, contribution, sentiment or affiliation. No member of a city police or fire department shall be dismissed, suspended or reduced in grade or pay for engaging in any off-duty political activity except as provided in subsection (3) of this section.

(2) Except as provided in KRS 90.220, no member of a city police or fire department shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or participate in a political campaign.

(3) No member of a city police or fire department may be a candidate for office of the employing city.

SECTION 121. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) In each city of the second class or urban-county government, all employes of the fire department shall be given not less than two (2) weeks of absence annually, with full pay.

(2) This section shall not apply in cities which enter into collective bargaining agreements with fire department employes.

SECTION 122. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) The fire department of each city of the first and second class or urban-county government shall be divided into three (3) platoons. Each platoon shall be on duty for twenty-four (24) consecutive hours after which the platoon serving twenty-four (24) hours shall be allowed to remain off duty for forty-eight (48) consecutive hours, except in cases of emergency. The schedule of working hours shall be arranged to comply with this section. The pay, rank or benefits of the members and officers of the fire department shall not be reduced as a result of this section.

(2) This section shall not apply in cities which enter into collective bargaining agreements with fire department employes.

Section 123. KRS 95.495 is amended to read as follows:

(1) In all cities of the second *or third* class or urban-county governments, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

(3) This section shall not apply in cities which enter into collective bargaining agreements with police department employes.

SECTION 124. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) If a city of the fourth, fifth or sixth class adopts an ordinance establishing civil service for the police or fire department, the city may adopt the same provisions governing civil service for police or fire departments in cities of the second or third class by specifying the option in the ordinance.

(2) If a city of the fourth, fifth or sixth class adopts an ordinance establishing a pension fund for the police or fire department, the city may adopt the same provisions governing pension funds for police or fire departments in cities of the second or third class by specifying the option in the ordinance.

(3) Such cities may not rescind such adoptions once adopted.

SECTION 125. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in this section, no member of the police or fire department in cities of the second and third classes or urban-county government shall be reprimanded, dismissed, suspended or reduced in grade or pay. Grounds for disciplinary action shall be limited to inefficiency, misconduct, insubordination, and violation of the law.

(2) Any person may prefer charges against a member of the police or fire department by filing them with the person responsible for maintaining the records of the legislative body.

(3) Upon filing of the charges by a legislative body member, or appointing authority, or the head of the department, the member charged shall promptly be served with a copy of the charges and notice of the time and place the legislative body will hold a hearing on the charges which shall not be sooner than ten (10) days after service of the charges nor later than the first regular meeting of the legislative body after expiration of said ten (10) days. No legislative body member preferring charges may sit as a legislative body member during any hearing on those charges. The person accused may in writing waive the hearing of charges and accept the disciplinary decision of the legislative body.

(4) Upon filing of charges by any person other than a legislative body member, the appointing authority, or the head of the department, a copy of the charges shall promptly be forwarded to the member charged and to the attorney having the responsibility for prosecuting the charge before the legislative body. The attorney shall review the charges to determine whether they state grounds for disciplinary action, and if grounds for disciplinary action is stated within the complaint, shall investigate to determine whether sufficient evidence to support the complaint exists to merit a hearing before the legislative body. Within five (5) days after filing of the charges the attorney shall file with the legislative body his recommendations as to whether further prosecution of the charges before the legislative body should follow. Not later than its first regular meeting after the attorney has filed his recommendations, the legislative body shall decide whether to hear the charges. If the legislative body decides to hear the charges, notice of the time and place the legislative body will hold a hearing on the charges shall be served upon the member charged. The hearing date shall be not sooner than ten (10) days after service of the notice nor later than the first regular meeting of the legislative body after expiration of the ten (10) days. The person accused may in writing waive the hearing of charges and accept the disciplinary decision of the legislative body.

(5) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any district court judge on application of the legislative body may compel obedience by proceeding for contempt as in the case of disobedience of a subpoena issued from the district court. The member charged may have subpoened any witnesses he may desire, upon furnishing their names to the legislative body. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(6) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he may suspend the member from duty or from both pay and duty, pending a hearing, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuance granted without the consent of the member charged.

(7) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(8) Notwithstanding the other provisions of this section, a member of the police or fire department may be suspended without pay on the grounds specified in subsection (1) of this section by the head of the department or by the appointing authority for not more than thirty (30) days in any twelve (12) month period, and may be reprimanded by such head or authority not more than twice in any twelve (12) month period. The actions of such head or authority shall be subject to appeal to the legislative body if notice of appeal is filed with the person responsible for maintaining the records of the legislative body within ten (10) days of the action of the unit head or appointing authority. The provisions of subsections (3), (4) and (5) of this section shall apply to appeal hearings. The appealed action may be reviewed, reduced or revoked by the legislative body. If the legislative body finds that the unit head or appointing authority acted in error, it shall take necessary action to restore the appealing employe to his condition before the error. An appeal by an employe shall suspend the operation of the action of the unit head or appointing authority pending action by the legislative body.

SECTION 126. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Any plan adopted by a city or an agency of a city for the payment of retirement, disability or hospitalization benefits to its employes and hospitalization benefits to the immediate families of its employes, and any plan of an urban-county government under KRS 67A.360 to 67A.690 for a police and firemen's retirement and benefit fund, shall provide that any officer or member of a paid city police or fire department who has completed five (5) years or more service in the department, but who is unable to perform his duties by reason of heart disease or any disease of the lungs or respiratory tract, shall be presumed to have contracted the disease while on active duty as a result of strain or the inhalation of noxious fumes, poison or gases, and shall be retired under terms of the pension system of which he is a member if he passed an entrance physical examination and was found to be in good health as required. This section shall not apply in cities required to operate under the terms of KRS 95.851 to 95.885.

Section 127. KRS 96A.040 is amended to read as follows:

(1) The business, activities and affairs of a transit authority shall be managed, controlled and conducted by a board consisting of members appointed as follows:

(a) If the authority is established by one (1) city alone, or by a county alone, the members shall be eight (8) in number and shall be appointed by the appointing authority of such city or county;

(b) If the authority is established by joint proceedings of two (2) public bodies, the membership shall be eight (8) in number, four (4) of whom shall be appointed by the appointing authority of each of such public bodies;

(c) If an authority is created and established by joint proceedings of more than two (2) public bodies, the membership shall be eight (8) in number, plus one (1) additional member for each participating public body in excess of two (2), and the members thereof shall be appointed by the appointing authorities of the participating public bodies in such manner as may be set forth in the joint proceedings;

(d) If an authority is created and established, and subsequently one or more other public bodies are permitted to join therein, the membership of the board may be enlarged, with the concurrence and approval of the governing bodies of the public bodies theretofore participating, by not more than one (1) additional member for each additional public body so permitted to join the authority.

(2) [No officer or employe of any public body represented in the creation, establishment, or enlargement of an authority shall be eligible for appointment to the board.

(3)] After the effective date of the creation of an authority as provided in this chapter, the appointing authority or the appointing authorities, as the case may be, shall, in such manner as may be specified in the proceedings or joint proceedings, appoint at least two (2) members for terms of one (1) year, at least two (2) members for terms of two (2) years, at least two (2) members for terms of three (3) years, and the remaining number for terms of four (4) years; such terms to expire, in each instance, on June 30 and thereafter until a successor is appointed and accepts appointment. Upon the expiration of these initial staggered terms, successors shall be appointed by the respective appointing authorities, for terms of four (4) years, and until successors are appointed and accept their appointments. Members shall be eligible for reappointment.

(3) [(4)] Any member of the board may be removed by his or her appointing authority for inefficiency, neglect of duty, malfeasance, conflict of interest, or want of mental or physical capacity to serve. Any appointing authority exercising the power to remove a member of the board shall submit to the board a written statement setting forth the reasons for removal. Notice shall be given to the member named in such statement; a hearing, if requested, shall be conducted within thirty (30) days before the members of the board who are not the subject of such removal proceedings; a record of the hearing shall be made by the secretary-treasurer of the board; and the member named in such removal notice may appeal any adverse decision, within ten (10) days after the rendering thereof, to the circuit court of any county which is served in whole or in part by the facilities of the transit authority, such appeal to be perfected by filing with the clerk of such court a copy of the removal proceedings certified by the secretary-treasurer of the board. The court, upon application of the member removed, may in its discretion order that the original record of the proceedings be filed with the clerk as the basis for such appeal. There shall be a right of appeal to the Court of Appeals.

(4) [(5)] Members of the board shall be allowed reasonable expenses necessarily incurred by them in the conduct of the affairs of the authority. Compensation may be paid to members of the board if so provided in the proceedings or joint proceedings, subject to such limitations as may be set forth therein.

Section 128. KRS 96A.170 is amended to read as follows:

[(1)] An authority created and established under this chapter, together with its ownership, financing, operation, rates and charges for use of its services and facilities, rules and regulations, routes, schedules and quality of service within its transit area shall be exempt from all jurisdiction of the department of transportation of the commonwealth, provided, however, that no new service may be instituted within or outside of the authority's transit area in competition with an existing certificated bus company without an application to and a grant of authority from the department of transportation as provided by KRS chapter 281, provided further that nothing in this section shall deny the department of transportation the authority to render such advice and assistance, including financial aid, engineering, planning and technical assistance, as it deems advisable, to enable an authority as created under this chapter to acquire, construct, expand, maintain, and operate a mass transit system as defined in this chapter and to establish regulations to promote local transit authorities.

[(2) No transit authority may engage in any charter bus service beyond the territorial limits of its transit area except a transit authority located in an urban county government which may engage in intrastate charter bus service within twenty-five miles from the boundaries of the urban county government.]

Section 129. KRS 99.490 is amended to read as follows:

(1) If the council within its discretion finds and determines that it would be more efficient and in the public interest for the powers, functions, and duties of an agency to be exercised by the community or the housing authority of the community, such community or housing authority shall have all of the powers, functions, rights, duties and privileges (subject to the limitations thereon) of an agency under KRS 99.330 to 99.510, and any powers of a public body (including a community) to assist an agency, or a project thereof, may be exercised to assist such community or housing authority or the project thereof. For such purposes, the term "agency," as used in KRS 99.330 to 99.510, shall mean the housing authority or the city or county, as the case may be, unless a different meaning clearly appears from the context. If a community has, pursuant to this section, determined to exercise the powers, functions, and duties of an agency, it may delegate any of them to a department or departments of such community, or may create a special department to exercise the powers and perform the functions and duties of an agency; provided that no such department or departments shall have the power to issue the bonds or acquire title to real property, this power being reserved to the community. Bonds issued by the community or by the housing authority of the community for any purposes under KRS 99.330 to 99.590 may be revenue bonds.

(2) The council of a community may dissolve an agency created under KRS 99.350 upon adoption of a resolution so providing and containing the findings required by subsection (1) of this section.The provisions of subsection (1) shall thereupon apply, except that a city may choose, in lieu thereof, to exercise urban renewal functions pursuant to Sections 37 to 50 of this Act. In no event shall such dissolution impair the obligations of any contracts of the agency which shall continue under the same terms and conditions as contracts of the community.

Section 130. KRS 100.131 is amended to read as follows:

An independent city planning unit may exercise extraterritorial jurisdiction for the purposes of subdivision regulations. *It may also exercise extraterritorial jurisdiction for the purposes of zoning regulations up to two (2) miles* and, with the consent of the fiscal court, *zoning* [other] regulations up to five (5) miles from all points upon the city's boundary, but not beyond the county boundary, nor within the boundary of any city not in such planning unit, provided, however, that where the extraterritorial *jurisdictions* [jurisdiction] of planning units overlap, the boundary shall be midway between them. The jurisdiction of joint and regional planning units shall be coterminous with their political boundaries. Nothing herein, however, shall prevent any planning unit from making planning studies of areas located outside its jurisdiction.

Section 131. KRS 132.027 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, no city shall levy a rate which exceeds the compensating tax rate defined in KRS 132.010, xcept as provided in [subsection (2) of] this section.

(2) [Notwithstanding the limitations contained in subsection (1) of this section,] Any city which levied a poll tax in 1973 may include the revenues received from the poll tax in that year in computing the compensating tax rate for 1974 and subsequent years.

(3) Any city may change the compensating tax rate only by popular vote in accordance with Section 31 of this Act. If a majority of votes cast approve a change in the compensating tax rate, the city legislative body shall levy ad valorem taxes at a rate not to exceed the rate approved by the voters in the next tax levy and in such succeeding levy until changed by the voters.

(4) The voters of any service area within a taxing district as provided in subsection (4) of Section 56 of this Act may increase the compensating tax rate for that service area by following the provisions of subsection (3). The question submitted to the voters may specify the nonrevenue-producing service to be provided as a result of increasing the tax rate in which case any increase in revenue shall be used by the city to provide the services specified. If any indebtedness is incurred by the city in providing additional urban services to a service area under this subsection, the increase in the compensating tax rate for the service area shall not be lowered until the indebtedness is retired.

Section 132. KRS 424.120 is amended to read as follows:

(1) Except as provided in subsection (2), whenever an advertisement for a publication area is required by law to be published *and* [in a] newspaper *publication is chosen as the method of publishing such advertisement,* the publication must be made in a newspaper that meets the following requirements:

(a) It must be published in the publication area. A newspaper shall be deemed to be published in the area if it maintains a known office in the area for the purpose of gathering news and soliciting advertisements and other general business of newspaper publications, and has a second-class mailing permit issued for that office. A newspaper printed outside of Kentucky shall not be eligible to publish advertisements for any county or publication area within the county, other than for the city in which its main office is located, if there is a newspaper printed in the county that has a substantial general circulation throughout the county and that otherwise meets the requirements of this section; and

(b) It must be of regular issue and have the largest bona fide circulation in the publication area. A newspaper shall be deemed to be of regular issue if it is published regularly, as frequently as once a week, for at least fifty weeks during the calendar year as prescribed by its mailing permit, and has been so published in the area for the immediately preceding one-year period. A newspaper shall be deemed to be of *the largest* bona fide circulation in the publication area if it *had the largest average number of copies of total paid circulation each issue during the preceding twelve (12) months as indicated by the statement of ownership, management and circulation filed by newspaper publishers with the U.S. Postal Service* [is circulated generally in the area, and maintains a definite price or consideration not less than fifty percent of its published price, and is paid for by not less than fifty percent of those to whom distribution is made]; and

(c) It must bear a title or name, consist of not less than four pages without a cover, and be of a type to which the general public resorts for passing events of a political, religious, commercial and social nature, and for current happenings, announcements, miscellaneous reading matter, advertisements, and other notices. The news content must be at least twenty-five percent of the total column space in more than one-half of its issues during any twelve-month period.

(2) If, in the case of a publication area smaller than the county in which it is located, there is no newspaper published in the area, the publication shall be made in a newspaper published in the county that is qualified under this section to publish advertisements for the county. If, in any county there is no newspaper meeting the requirements of this section for publishing advertisements for such county, any advertisements required to be published for such county or for any publication area within the county shall be published in a newspaper of the largest bona fide circulation in that county, published in and qualified to publish advertisements for an adjoining county in Kentucky. This subsection is intended to supersede any statute that provides or contemplates that newspaper publication may be dispensed with if there is no newspaper printed or published or of general circulation in the particular publication area.

(3) If a publication area consists of a district, other than a city, which extends into more than one county, the part of the district in each county shall be considered to be a separate publication area for the purposes of this section, and an advertisement for each such separate publication area shall be published in a newspaper qualified under this section to publish advertisements for such area.

Section 133. KRS 424.160 is amended to read as follows:

(1) For all newspaper advertising required by law, the publisher is entitled to receive payment for each insertion at a rate per linear inch, single column, computed as solid eight-point measure. The rate shall not exceed *the lowest earned advertising rate for the same or similar space as appearing on the most recently published or prepared advertising rate card of the particular newspaper* [that paid by general advertisers for comparable matter, but in no case shall it be less than $1.00 per linear inch for weekly newspapers and $1.50 per linear inch for daily newspapers].

(2) Whenever by law or by the nature of the matter to be published a display form of advertisement is required, or whenever the person or officer responsible for causing an advertisement to be published determines in his discretion that a display form is practicable or feasible, and so directs the newspaper, the advertisement shall be published in display form and the newspaper shall be entitled to receive therefor *the lowest earned advertising rate for the same or similar space as appearing on the most recently published or prepared advertising rate card of the particular newspaper* [its established display rate].

(3) Whenever it is provided by statute that an advertisement shall be published of the filing of a petition or application seeking official action, the filing, if required by other than a governmental official or agency, shall not be deemed complete unless there is deposited with the petition or application an amount sufficient to pay the cost of publication.

(4) The expense of advertisements in judicial proceedings shall be taxed as costs by the clerk of the court.

Section 134. KRS 424.170 is amended to read as follows:

(1) The affidavit of the publisher or proprietor of a newspaper, stating that an advertisement has been published in his newspaper and the times it was published, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

(2) The affidavit of the person responsible for publishing as described in KRS 424.150, stating that an advertisement has been either delivered by hand or first class mail to each residence and place of business within the publication area, and to all interested persons who request receipt of such advertisements, but who do not reside or have a place of business in the publication area, attached to a copy of the advertisement, constitutes prima facie evidence that the publication was made as stated in the affidavit.

Section 135. KRS 424.190 is amended to read as follows:

(1) In any case where a statute now gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and in any case where a statute now provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter*, except as provided in subsection (2) of this section.*

(2) In lieu of newspaper publication of advertisement, persons responsible for publication as described in KRS 424.150 may substitute delivery of a copy of the advertisement by hand or by first class mail to each residence and place of business within the publication area and to all interested persons who request receipt of such advertisements, but who do not reside or have a place of business within the publication area.

Section 136. KRS 424.220 is amended to read as follows:

Excepting officers of [a city of the first class,] a county containing [such] a city *of the first class,* a public agency of such a [city or] county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of *any* [a] city [of the second class that is required by law to publish an annual audit of its financial affairs], every public officer of any school district, [city,] county, or subdivision or district less than a county, whose duty it is to collect, receive, have the custody, control or disbursement of public funds, and every officer of any board or commission of a [city,] county or district whose duty it is to collect, receive, have the custody, control or disbursement of funds collected from the public in the form of rates, charges or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. The statement shall show the amount of funds collected and received, from what sources received, the amount disbursed, the date of each disbursement, for what purpose expended, and to whom paid, except that only the totals of amounts paid to each individual as salary or commission and public utility bills need to be shown and except that the amount of salaries paid to all teachers shall be shown as a lump sum instructional expenditure for the school district and not by amount paid to individual teachers and the amount of salaries paid to all other employes of the board shall be shown as lump sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service; however the local board of education must have accessible a factual list of individual salaries for public scrutiny and the local board shall furnish by mail a factual list of individual salaries of its employes to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school employes. The officer shall procure and include in or attach to the statement as a part thereof a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement. The officer shall, within sixty days after the close of the fiscal year, cause the statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the [city,] county or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county court clerk of the county. Within thirty days after publication, the officer shall file with the auditor of public accounts a copy of the newspaper containing the statement.

Section 137. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies or equipment, or for contractual services other than professional, involving an expenditure of more than *five thousand dollars ($5,000)* [two thousand five hundred dollars ($2,500)] without first making newspaper advertisement for bids. Provided, however, That this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district.

Section 138. KRS 67A.010 is amended to read as follows:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the voters in any county [except a county containing a city of the first class] may merge all units of city and county government into an urban county form of government. Such merger shall take place only after compliance with the procedures set forth in KRS 67A.020 *or Sections 94 to 98 of this Act.*

SECTION 139. A NEW SECTION OF KRS CHAPTER 82A IS CREATED TO READ AS FOLLOWS:

The commentary accompanying this Code may be used as an aid in construing the provisions of this Code.

Section 140. KRS 57.285, 61.250, 61.260, 61.270, 61.280, 64.580, 65.010, 65.020, 66.050, 66.060, 66.070, 66.180, 66.190, 66.200, 66.230, 66.240, 66.250, 66.260, 66.270, 66.410, 66.420, 66.430, 66.440, 66.450, 66.460, 67.330, 67.340, 67.350, 67.360, 67.370, 67A.070, 67A.210, 67A.220, 67A.230, 67A.240, 67A.250, 67A.260, 67A.270, 67A.280, 67A.290, 67A.300, 67A.310, 67A.710, 67A.715, 67A.720, 67A.725, 67A.730, 67A.735, 67A.740, 67A.745, 67A.750, 67A.755, 67A.760, 67A.765, 67A.770, 67A.775, 67A.780, 67A.785, 67A.790, 67A.795, 67A.800, 67A.805, 67A.810, 67A.815, 67A.820, 67A.825, 67A.871, 67A.872, 67A.873, 67A.874, 67A.875, 67A.876, 67A.877, 67A.878, 67A.879, 67A.880, 67A.881, 67A.882, 67A.883, 67A.884, 67A.885, 67A.886, 67A.887, 67A.888, 67A.889, 67A.890, 67A.891, 67A.892, 67A.893, 67A.894, 69.450, 69.460, 69.470, 69.480, 69.490, 69.540, 69.550, 69.560, 69.575, 69.580, 69.590, 79.010, 79.020, 79.030, 79.040, 79.050, 79.060, 79.070, 79.080, 79.100, 79.110, 79.120, 79.130, 79.140, 79.150, 79.160, 79.170, 79.180, 79.190, 80.010, 80.020, 80.030, 80.040, 80.050, 80.060, 80.070, 80.080, 80.090, 80.110, 80.120, 80.130, 80.140, 80.150, 80.160, 80.170, 80.180, 80.190, 80.200, 80.230, 80.240, 80.250, 80.255, 80.256, 80.257, 80.620, 80.630, 80.640, 80.650, 80.660, 80.670, 80.680, 80.685, 80.690, 80.700, 80.710, 80.720, 81.020, 81.030, 81.040, 81.050, 81.060, 81.070, 81.080, 81.090, 82.010, 82.020, 82.025, 82.030, 82.040, 82.050, 82.060, 82.070, 82.075, 82.080, 82.085, 82.090, 82.095, 82.105, 82.110, 82.115, 82.120, 82.125, 82.130, 82.135, 82.140, 82.145, 82.150, 82.155, 82.160, 82.165, 82.170, 82.175, 82.180, 84.010, 84.020, 84.030, 84.040, 84.050, 84.060, 84.070, 84.080, 84.090, 84.100, 84.110, 84.130, 84.140, 84.150, 84.160, 84.170, 84.180, 84.190, 84.200, 84.210, 84.220, 84.230, 84.240, 84.250, 84.260, 84.270, 84.280, 84.290, 84.300, 84.320, 84.330, 84.340, 84.350, 84.360, 84.370, 84.990, 85.010, 85.020, 85.030, 85.040, 85.050, 85.060, 85.070, 85.080, 85.090, 85.100, 85.110, 85.120, 85.130, 85.140, 85.150, 85.160, 85.170, 85.180, 85.190, 85.200, 85.210, 85.220, 85.230, 85.240, 85.250, 85.260, 85.270, 85.280, 85.290, 85.300, 85.310, 85.320, 85.330, 85.335, 85.340, 85.350, 86.010, 86.020, 86.030, 86.040, 86.050, 86.053, 86.060, 86.070, 86.080, 86.090, 86.100, 86.110, 86.120, 86.130, 86.140, 86.150, 86.160, 86.170, 86.180, 86.190, 86.200, 86.210, 86.220, 86.230, 86.240, 86.250, 86.990, 87.010, 87.020, 87.030, 87.040, 87.050, 87.060, 87.070, 87.080, 87.090, 87.100, 87.110, 87.120, 87.130, 87.140, 87.150, 87.160, 87.170, 87.175, 87.180, 87.190, 87.200, 87.210, 88.010, 88.020, 88.030, 88.040, 88.050, 88.060, 88.070, 88.080, 88.090, 88.100, 88.110, 88.120, 88.130, 88.140, 88.150, 88.160, 88.170, 88.180, 88.190, 88.200, 88.210, 88.230, 89.010, 89.020, 89.030, 89.040, 89.050, 89.060, 89.070, 89.080, 89.090, 89.100, 89.110, 89.120, 89.130, 89.140, 89.150, 89.160, 89.170, 89.180, 89.190, 89.200, 89.205, 89.210, 89.220, 89.230, 89.240, 89.250, 89.260, 89.280, 89.290, 89.300, 89.310, 89.320, 89.330, 89.340, 89.350, 89.360, 89.370, 89.380, 89.390, 89.400, 89.410, 89.420, 89.430, 89.440, 89.450, 89.460, 89.470, 89.480, 89.490, 89.500, 89.510, 89.520, 89.530, 89.540, 89.545, 89.550, 89.560, 89.565, 89.570, 89.580, 89.590, 89.600, 89.610, 89.620, 89.630, 89.640, 89.650, 89.660, 89.670, 89.680, 89.690, 89.980, 89.990, 90.300, 90.310, 90.320, 90.330, 90.340, 90.350, 90.360, 90.370, 90.380, 90.390, 91.020, 91.060, 91.090, 91.100, 91.110, 91.120, 91.200, 91.260, 91.265, 91.270, 91.280, 91.290, 91.300, 91.310, 91.320, 91.330, 91.340, 91.350, 91.360, 91.370, 91.375, 91.380, 91.390, 91.400, 91.410, 91.420, 91.430, 91.440, 91.450, 91.460, 91.470, 91.480, 91.490, 91.500, 91.505, 91.510, 91.520, 91.530, 91.540, 91.550, 91.560, 91.570, 91.580, 91.590, 91.600, 91.610, 91.620, 91.630, 91.640, 91.650, 91.660, 91.670, 91.680, 91.990, 92.010, 92.020, 92.030, 92.040, 92.050, 92.060, 92.070, 92.080, 92.090, 92.100, 92.110, 92.120, 92.130, 92.140, 92.150, 92.160, 92.170, 92.180, 92.190, 92.200, 92.210, 92.220, 92.230, 92.240, 92.250, 92.260, 92.270, 92.280, 92.281, 92.285, 92.290, 92.300, 92.310, 92.320, 92.330, 92.340, 92.350, 92.360, 92.370, 92.380, 92.400, 92.403, 92.405, 92.410, 92.420, 92.430, 92.440, 92.450, 92.460, 92.470, 92.480, 92.490, 92.500, 92.510, 92.520, 92.530, 92.540, 92.550, 92.560, 92.570, 92.580, 92.590, 92.600, 92.610, 92.620, 92.630, 92.637, 92.640, 92.650, 92.660, 92.670, 92.680, 92.690, 92.700, 92.710, 92.720, 92.730, 92.740, 92.750, 92.760, 92.770, 92.780, 92.790, 92.800, 92.990, 93.010, 93.015, 93.020, 93.030, 93.050, 93.060, 93.070, 93.080, 93.090, 93.100, 93.110, 93.120, 93.275, 93.280, 93.290, 93.300, 93.310, 93.320, 93.330, 93.340, 93.350, 93.351, 93.352, 93.354, 93.355, 93.356, 93.359, 93.360, 93.370, 93.380, 93.390, 93.400, 93.410, 93.420, 93.430, 93.440, 93.450, 93.460, 93.470, 93.480, 93.490, 93.500, 93.510, 93.520, 93.530, 93.540, 93.550, 93.560, 93.570, 93.580, 93.590, 93.600, 93.880, 93.890, 93.900, 93.910, 93.920, 93.930, 93.940, 93.950, 93A.010, 93A.020, 93A.030, 93A.040, 93A.050, 93A.060, 93A.070, 94.010, 94.020, 94.030, 94.040, 94.050, 94.060, 94.070, 94.080, 94.090, 94.100, 94.110, 94.120, 94.130, 94.140, 94.150, 94.160, 94.170, 94.205, 94.280, 94.281, 94.282, 94.283, 94.284, 94.285, 94.286, 94.287, 94.291, 94.292, 94.293, 94.294, 94.295, 94.296, 94.297, 94.298, 94.299, 94.301, 94.302, 94.303, 94.304, 94.305, 94.306, 94.307, 94.308, 94.309, 94.311, 94.312, 94.313, 94.314, 94.315, 94.316, 94.317, 94.318, 94.319, 94.321, 94.322, 94.323, 94.324, 94.325, 94.351, 94.352, 94.353, 94.354, 94.360, 94.370, 94.500, 94.510, 94.520, 94.530, 94.540, 94.550, 94.560, 94.570, 94.670, 94.680, 94.740, 94.750, 94.760, 94.810, 94.815, 94.820, 94.825, 94.830, 94.840, 94.990, 95.150, 95.160, 95.170, 95.180, 95.200, 95.210, 95.270, 95.275, 95.430, 95.435, 95.440, 95.445, 95.450, 95.470, 95.480, 95.490, 95.497, 95.500, 95.505, 95.510, 95.680, 95.700, 95.710, 95.715, 95.720, 95.730, 95.740, 95.750, 95.760, 95.761, 95.762, 95.763, 95.764, 95.765, 95.766, 95.786, 95.787, 95.790, 95.800, 95.810, 95.820, 95.840, 97.060, 97.070, 97.080, 97.090, 97.100, 97.110, 97.120, 97.130, 97.140, 97.150, 97.160, 97.170, 97.180, 97.190, 97.200, 97.210, 97.220, 97.230, 97.240, 97.250, 97.251, 97.252, 97.253, 97.255, 97.257, 97.405, 97.425, 97.435, 97.441, 97.455, 97.465, 97.475, 97.485, 97.530, 97.540, 97.550, 97.560, 97.570, 97.580, 97.590, 97.600, 97.610, 97.620, 97.630, 97.640, 97.650, 97.660, 97.670, 97.680, 97.690, 97.700, 97.710, 97.720, 97.730, 97.740, 97.750, 97.760, 97.770, 97.780, 98.010, 98.011, 98.012, 98.013, 98.014, 98.030, 98.040, 98.050, 98.060, 98.070, 98.080, 98.090, 98.100, 98.110, 98.120, 98.130, 98.140, 98.150, 98.160, 98.170, 98.180, 99.610, 99.615, 99.620, 99.625, 99.630, 99.635, 99.640, 99.645, 99.650, 99.655, 99.660, 99.665, 99.670, 99.675, 99.680, 99.750, 99.755, 99.760, 99.765, 99.770, 102.010, 102.020, 102.030, 102.040, 102.050, 102.060, 102.070, 102.080, 103.010, 103.020, 103.030, 103.040, 103.050, 103.060, 103.070, 103.080, 103.090, 103.100, 103.110, 103.120, 103.130, 103.140, 103.150, 103.160, 103.170, 103.180, 103.190, 104.020, 104.030, 104.040, 104.050, 104.060, 104.070, 104.080, 104.090, 104.100, 104.110, 104.120, 104.130, 104.140, 104.150, 104.160, 104.170, 104.180, 104.190, 104.200, 104.210, 104.220, 104.230, 104.240, 104.250, 104.260, 104.270, 104.280, 104.290, 104.300, 104.310, 104.320, 104.330, 104.340, 104.350, 104.360, 104.370, 104.380, 105.010, 105.020, 105.030, 105.040, 105.050, 105.060, 105.070, 105.080, 105.090, 105.100, 105.110, 105.120, 105.130, 105.140, 105.150, 105.160, 105.170, 105.180, 108A.010, 108A.020, 108A.030, 108A.040, 108A.050, 108A.060, 108A.070, 108A.080, 108A.090, 108A.100, 108A.110, 108A.120, 108A.130, 181.510, 181.520, 181.530, 181.540, 181.550, 181.560, 181.570, 181.580, 181.590, 181.600, 181.610, 181.620, 181.630, 181.640, 181.650, 181.660, 181.670, 181.680, 181.690, 181.700, 181.710, 181.720, 181.730, 181.740, 181.750, 181.760, 181.770, 181.780, 181.790, 181.800, 181.810, 181.820, 181.830, 181.840, 181.850, 181.851, 181.852, 181.853, 181.854, 181.855, 181.856, 181.857, 181.858, 181.859, 181.860, 181.861, 181.862, 181.863, 181.864, 181.865, 181.866, 181.867, 181.868, 181.869, 200.340, 200.345, 200.350, 200.355, 204.200, 204.210, 216.080, 216.090, 216.230, 216.240, and 416.120 are repealed.

Section 141. All provisions of this Act, with the exception of Sections 56, 94 to 98 and 138 shall become effective July 1, 1980. Sections 94 to 98 and 138 shall become effective July 1, 1978.

The Committee on Health and Welfare reported **HB 305, HB 457, HB 531** with Committee Amendment attached thereto, **HB 532** with Committee Amendment Attached thereto, and **HB 80** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.223, Conditions for applying KRS 205.222, is hereby repealed.

HB 457, AN ACT relating to residence homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.455 is amended to read as follows:

Nothing in KRS 216.405 to 216.485 or the rules and regulations adopted under the provisions of KRS 216.405 to 216.485 shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(1) Private offices and clinics of physicians, dentists and other practitioners of the healing arts.

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employes, provided that such facility does not contain inpatient or resident beds for patients or employes who generally remain in the facility for more than twenty-four hours.

(3) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide medical, nursing personnel and health related services, including, but not limited to, boarding houses which are operated by persons contracting with the United States veterans administration hospitals for boarding services.

(4) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

(5) Residence homes which provide domiciliary and auxiliary commercial services and incidental health care services.

HB 531, AN ACT relating to mentally retarded persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 203.015 is amended to read as follows:

(1) When the petition has been properly filed with the clerk of the court, the court shall appoint two (2) physicians or one (1) physician and one (1) certified clinical psychologist licensed under the provisions of KRS chapter 319 to examine the defendant and to certify to the court as to whether they find the defendant mentally disabled.

(2) When the defendant is alleged to be disabled because of mental retardation the two (2) examiners shall in consultation with current service providers and qualified mental retardation professionals as defined in KRS 202B.010(3) prepare a report which contains:

(a) Current evaluations of the individual's mental, physical, social and education conditions; and

(b) A recommendation proposing the type and scope of guardianship services needed by the individual; and

(c) A judgment as to the most appropriate living arrangement for the individual.

(3) Where possible, the physicians or physician selected shall have made a special study of mental deficiency and mental disease. The examiners, either physicians or physician and certified clinical psychologist, shall be entitled to a fee of ten dollars ($10.00) each for such examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the inquest.

(4) [(3)] The certificate shall state that the defendant has been examined by each of the medical examiners making the certificate within three (3) days prior to the date of the certificate.

Section 2. KRS 203.022 is amended to read as follows:

(1) Upon return of the summons or other process, or on the appearance of the defendant, with or without summons or other process, in person before the court together with the return of the service of notice, if there by any person notified, or upon the personal appearance or written consent to the proceedings of any persons notified, or as soon thereafter as practicable the court shall proceed to hear and dispose of the case.

(2) The court shall impanel a jury and the following oath shall be administered to the jury: "You do swear that you will well and truly inquire and from the evidence say in your verdict whether the person you have in charge is incompetent to manage his affairs, and if so, then you will also determine his place of birth and residence and whether he has been brought into this state by any person and by whom for the purpose of becoming a charge of the commonwealth. You will find what estate, and the value thereof, he owns in possession, reversion or remainder; whether his parents are alive, where they reside, and whether they have estate sufficient to support him, and if married, where his or her spouse resides and whether such spouse has an estate sufficient to support him."

(3) When the defendant is alleged to be incompetent because of mental retardation the jury shall:

(a) Inquire into the nature and extent of the general intellectual functioning of the individual;

(b) Determine the extent of the impairment in his adaptive behavior;

(c) Ascertain his capacity to care for himself and his estate.

(4) If it is determined that the retarded individual possesses the capacity to care for himself and his estate, the jury shall dismiss the petition.

(5) If it is found that the retarded individual lacks the capacity to do some, but not all, of the tasks necessary to care for himself or his estate, the jury shall specify the legal disabilities to which the retarded person is subject.

(6) If it is found that the retarded individual is totally without capacity to care for himself and his estate, the jury shall specify that finding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section "limited committee" means a limited committee for a mentally retarded person, which possesses fewer than all of the legal rights and powers of a committee of a person of unsound mind as provided in KRS 387.230, and whose rights, powers, and duties have been specifically enumerated by court order. Such granted powers and duties shall not exceed those authorized a committee of a person of unsound mind under KRS 387.230.

(2) A court order establishing a limited committee based on determination of incompetency under KRS 203.015 and 203.022, shall define the powers and duties of the limited committee so as to permit the mentally retarded person to care for himself and his property commensurate with his ability to do so, and shall specify all legal disabilities to which the retarded person is subject.

(3) A mentally retarded person for whom a limited committee has been appointed shall retain all legal and civil rights except those which have by court order been designated as legal disabilities and which have been specifically granted to the limited committee.

(4) The court may appoint as limited committee of a mentally retarded person any suitable person or agency, public or private, including but not limited to any private association capable of conducting an active committee program for a mentally retarded person, but the court shall not ordinarily or customarily appoint as limited committee the department for human resources or any other agency, public or private, that is directly providing services to the mentally retarded person.

(5) Prior to the appointment, the court shall make a reasonable effort to question the mentally retarded person concerning his preference regarding the person, agency, or association to be appointed limited committee, and any preference indicated shall be given due consideration by the court.

(6) Each limited committee which has any authority over the person of a mentally retarded person shall, in addition to his enumerated or customary duties, report to the court at intervals indicated by court order, but at least twice annually. The report shall contain statements indicating:

(a) The person's current mental, physical, and social condition;
(b) His present living arrangement;
(c) His need for continued limited committee services; and
(d) Any other information requested by the court or necessary in the opinion of the limited committee.

(7) A reasonable effort shall be made by the court at the time a limited committee is appointed to acquaint the mentally retarded person with his right to request at a later date his limited committee's dismissal or modification of the limited committee's order. A written statement shall be provided to such person specifying the procedure to be followed in petitioning the court for such dismissal or modification.

(8) Limited committees shall receive the same compensation for their services, as such, as is provided in KRS 386.180 for trustees of estates.

SECTION 4. A NEW SECTION OF KRS CHAPTER 387 IS CREATED TO READ AS FOLLOWS:

(1) A mentally retarded person for whom a limited committee has been appointed pursuant to this Act, a mentally retarded adult for whom a committee has been appointed prior to the effective date of this Act, or any interested person or entity on such person's behalf, may petition the court for an order:

(a) Dismissing the present committee or limited committee;
(b) Modifying the specifications of the existing limited committee order.

(2) A request under subsection (1) of this section, if made by the mentally retarded person himself, may be communicated to the court by any means, including but not limited to, oral communication or informal letter.

(3) Upon receipt of a petition filed pursuant to this section, the court may with or without a hearing:

(a) Dismiss the petition; or
(b) Remove the committee and dissolve the prior committee order; or
(c) Remove the committee and appoint a successor; or
(d) Remove the committee and appoint a limited committee; or
(e) Remove the limited committee and appoint a successor; or
(f) Alter the specifications of the original order; or
(g) Make any other order which the court deems appropriate and in the best interest of the mentally retarded person.

Amend printed copy of **HB 531**, page 6, line 1, by deleting the word "and"

and on lines 2-3, by deleting the sentence after subsection (d) and inserting in lieu thereof the following sentence: "An itemized statement of the person's income and expenses; and"

and after line 3, by inserting a new subsection (e) to read as follows: "(e) Any other information requested by the court or necessary in the opinion of the limited committee."

and on line 12, by deleting after the word "committees" the word "shall" and inserting in lieu thereof the word "may"

HB 532, AN ACT relating to fire safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:
For the purposes of this Act:

(1) "Residential unit" shall mean any and all of the following constructed after the effective date of this Act:

(a) A single family residence;
(b) A mobile home as defined in KRS 227.550, but only to the extent of residential occupancy;
(c) A residential apartment in an apartment building or condominium structure;
(d) Each residence in a duplex, triplex or townhouse development.

(2) "Smoke detector" means a device which detects visible or invisible particles of combustion, incorporating an alarm sounding device, and operating from a power supply either in the unit or obtained at a point of installation.

(3) "Listed" means listed by the Underwriters Laboratory, Inc., or another testing laboratory approved by the office of the state fire marshal.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) At least one listed smoke detector shall be installed in every residential unit in this state constructed after the effective date of this Act.

(2) Each smoke detector shall be clearly labeled to indicate that it is "listed".

(3) Each smoke detector, when activated, shall cause the operation of an alarm signaling device clearly audible in every bedroom of the residential unit

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) No unit or agency of government in the Commonwealth of Kentucky shall issue a building permit or approve plans for the construction of a structure incorporating a residential unit, unless plans for the structure indicate that it will be in compliance with the provisions of this Act.

(2) No unit or agency of government in the Commonwealth of Kentucky shall issue a certificate of occupancy for a residential unit which does not comply with the provisions of this Act.

(3) The provisions of this Act shall be enforced by each unit of local government in Kentucky which enforces building regulations or is served by a paid fire department. The mayor of each city or urban-county government and the county judge/executive of each county shall determine what agency or instrumentality of local government in the city or county shall enforce the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:
Any person who sells, conveys, transfers or otherwise assigns in this state any residential unit constructed after the effective date of this Act which fails to comply with the standards of Section 2 of this Act shall be fined fifty dollars ($50). Each sale, conveyance, transfer or assignment of such a residential unit shall constitute a separate violation.

The Committee Amendment to **HB 532** is as follows:

Amend printed copy of **HB 532**, page 2, lines 13-18, by deleting subsection (1) in its entirety

and on lines 19 and 23, by renumbering subsection (2) as subsection (1) and by renumbering subsection (3) as subsection (2)

HB 80, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 208.200 is amended to read as follows:

(1) If in its decree the juvenile court finds that the child comes within the purview of subsections (1) or (2) of KRS 208.020, the court may, by order:

(a) Place the child on probation or under supervision in his own home or in a suitable family home or boarding home, upon such conditions as the court shall determine. Probation or supervision shall not be ordered or administered as a punishment, but as a measure for the protection, guidance and well-being of the child and his family. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or a child welfare worker. Probation and supervision methods shall be directed to the discovery and correction of the basic causes of maladjustment and to the development of the child's personality and character, with the aid of the social resources of the community. A child so placed on probation or supervision shall remain subject to the jurisdiction of the juvenile court until he becomes eighteen (18) years of age, unless he is discharged prior thereto by the court.

(b) Commit the child to the custody or guardianship of the department or of a private institution or public agency authorized to care for such children, or place the child under the custody and the supervision of a suitable person. All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Such commitment or placement shall be until the age of eighteen (18) subject to the power of the court to terminate the order and discharge the child prior thereto. The governing authorities of said department, agency or institution may likewise discharge the child unless the court directs otherwise. Prior to said discharge two weeks' notice must be given to the committing court, to the legal representative of the child and to the county attorney of the county in which committing court presides. During the period of commitment or placement, the court may review a dispositional order and may modify or terminate such order as the court deems essential to the best interests of the child. In committing a child to a private institution or agency the court shall select one that is approved by the department for human resources and children committed to such an institution or agency shall be subject to the visitation and supervision of a probation officer or child welfare worker.

(2) *The court shall establish a system of periodic mandatory review of each case where a child has been committed to custody or guardianship of the department or of a private institution or a public agency under provisions of subsections (1)(a) and (b) of this section. Each case shall be reviewed by the court within six (6) months from the date of custody or guardianship and at least once every six (6) months thereafter as long as a child remains in custody or guardianship.*

(3) In the event a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment the court shall have exclusive, original jurisdiction of the new offense.

(4) [(3)] After a child has been disposed of as provided in paragraph (a) or (b) of subsection (1) of this section he may not then be transferred to the circuit court as provided for in KRS 208.170.

(5) [(4)] If a child sixteen (16) years of age or older has been adjudicated delinquent in the commission of an offense classified as a misdemeanor or violation, the court in its discretion may order as follows:

(a) Participation in a community services work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred and twenty (120) hours for a child adjudicated delinquent in the commission of a Class A misdemeanor, not to exceed eighty (80) hours for a child adjudicated delinquent in the commission of a Class B misdemeanor, and not to exceed forty (40) hours for a child adjudicated delinquent in the commission of an offense classified as a violation under the penal code. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution authorized by KRS 208.240.

(b) The court may impose a fine for a misdemeanor or violation offense. The imposition of a fine for a misdemeanor or violation offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine.

(c) Fines shall be levied consistent with the schedule set forth below:

For a Class A misdemeanor, not to exceed $150;
For a Class B misdemeanor, not to exceed $75; and
For a violation, not to exceed $50.

When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately.

(6) [(5)] When a child has been ordered to comply with the provisions in subsection *(5)* [(4)] above and fails to do so, the court upon motion of the prosecuting attorney or upon its own motion may require the child to show cause why he should not be held in detention for noncompliance with the court order. The court may issue an order of custody or a summons for his appearance.

(7) [(6)] Following issuance of a show cause order pursuant to subsection *(6)* [(5)] above, unless the child can show that noncompliance was not the result of an intentional refusal to comply with the court order or not the result of a failure to make a good faith effort to comply with the court order, the court may order the child detained as follows:

(a) For a period not to exceed five (5) days if the order is imposed for the commission of a Class A misdemeanor;

(b) For a period not to exceed three (3) days if the order is imposed for the commission of a Class B misdemeanor;

(c) For a period not to exceed two (2) days if the order is imposed for the commission of a violation.

Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational obligations of the child, and shall be in an approved detention facility as provided in KRS 208.130.

(8) [(7)] When in the judgment of the court a disposition stated above in subsection *(5)* [(4)] is inadequate to aid in the rehabilitation of a misdemeanor offender, the court in its discretion may order a child sixteen (16) years of age or older who has been adjudicated delinquent in the commission of an offense classified as a misdemeanor to detention in an approved detention facility as provided in KRS 208.130 based upon the schedule set forth below:

Class A misdemeanor, 1 to 30 days;
Class B misdemeanor, 1 to 15 days;

provided, that, the court shall advise the child prior to entering its order under this subsection that the child upon demand may receive a trial by jury in the regular session of district court, which trial and any appeal therefrom shall be conducted in accordance with the Rules of Criminal Procedure.

The detention of a juvenile misdemeanor offender shall not be scheduled to interfere with the educational obligations of the child. Detention may be scheduled during periods such as weekends, after school, or overnight. Any portion of a day spent in detention shall be deemed as one day for the purposes of serving a detention term.

(9) [(8)] No adjudication by a juvenile court of the status of any child shall be deemed a conviction, nor shall such adjudication operate to impose any of the civil disabilities ordinarily resulting from a criminal conviction, nor shall any child be found guilty or be deemed a criminal by reason of such adjudication.

The Committee Substitute to **HB 80** is as follows:

HB 80, AN ACT relating to children in foster family homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The department shall promulgate regulations specifying:

(1) The method used to periodically review children placed in foster family homes which shall include but not be limited to the following:

(a) Within one (1) week of the child's placement in a foster family home, a case conference shall be held for the purpose of establishing a specific treatment plan for each child outlining specific objectives relating to a permanent plan for the child. Additional case conferences and reviews shall be held as appropriate, but shall be held at least every six (6) months.

(b) On-going case work and supportive services shall be provided as indicated to best meet the needs of the child as established by the review and planning process.

(c) There may be procedures for providing for appropriate visitation between the parents and the child based on the needs of the child.

(2) The procedures for reporting to a committing court the status and plans for children committed to the department as dependent, neglected or abused and placed in foster family homes.

The Committee on Business Organizations and Professions reported **HB 616** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 616, AN ACT relating to thoroughbred horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a trust and revolving fund for the Kentucky state racing commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be

distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky state racing commission and upon approval of the secretary of the executive department for finance and administration. Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky state racing commission, a Kentucky thoroughbred development fund advisory committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky state racing commission by July 1 of each year. The committee shall consist of two (2) thoroughbred breeders recommended by thoroughbred breeders of Kentucky, Inc.; one (1) thoroughbred owner recommended by the Kentucky division of the horsemen's benevolent and protective association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky; and one (1) member of the Kentucky state racing commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky state racing commission shall make an appointment for the organization or organizations failing to so recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3)(a) The Kentucky thoroughbred development fund committee shall advise and assist the Kentucky state racing commission in the development of the supplemental purse program provided herein for Kentucky sired thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, rules and regulations for the provision of such supplemental purses, the amount thereof, the races for which such purses are to be provided and the conditions thereof, manner and method of payment of such supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky sired thoroughbreds for purposes of this Act, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of such supplemental purses and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this Act.

(b) The Kentucky state racing commission shall employ such qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this Act. Such persons shall serve at the pleasure of the commission and compensation for such personnel shall be fixed by the commission. The compensation of such personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this Act shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky state racing commission, with the advice and assistance of the Kentucky thoroughbred development fund advisory committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses designated stakes, handicap, allowance and non-claiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in such races by Kentucky sired thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for such race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in such races. That portion of the supplemental purse provided for any such designated race for a winning or placing finish shall be awarded and paid to the owner of the horse so finishing only if such horse is a Kentucky sired thoroughbred duly registered as such with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5)(a) For purposes of this Act, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky sired thoroughbreds for purposes of this Act, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions and registered as a Kentucky sired thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky sired thoroughbred for purposes of this Act if the sire of such thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided such thoroughbred is duly registered as a Kentucky sired thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky sired thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in such race.

(6)(a) Thoroughbred breeders of Kentucky, Inc., is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky sired thoroughbred in accord with the terms of this Act and such rules and regulations as may be promulgated by the Kentucky state racing commission. When a Kentucky sired thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for such thoroughbred with the seal of the registrar, certifying that the said thoroughbred is a duly qualified and registered Kentucky sired thoroughbred for purposes of this Act. The registrar may establish and charge, with the approval of the commission, reasonable registration fees for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky sired thoroughbreds. Registration records of the registrar shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky sired thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the registrar, petition seeking registration of such thoroughbred. The commission shall promptly hear the matter de novo and issue its order directing the official registrar to register or not to register as it may be determined by the commission.

(7) The Kentucky state racing commission shall adopt such rules and regulations as may be necessary to carry out the provisions and purposes of this Act, including the adoption of such rules and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky sired thoroughbreds with the official registrar, and shall administer the Kentucky sire program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 2. KRS 138.510 is amended to read as follows:

(1) An excise tax is imposed on every person, corporation or association which operates a running horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to four and three-fourths percent (4 3/4 %) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. *Three-nineteenths (3/19) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky thoroughbred development fund created and described in Section 1 of this Act.*

(2) An excise tax is imposed on every person, corporation or association which operates a trotting horse race track at which betting is conducted through a pari-mutuel or other similar system. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. One-fifth (1/5) of all amounts received by reason of such tax shall be set aside by the department of revenue and shall be deposited in the Kentucky standardbred development fund created and described in KRS 230.770.

Adjournment

Representative B. Richardson moved that the House adjourn until 4:00 p.m., Monday, February 27, 1978.

The motion to adjourn was adopted by voice vote.

MONDAY, FEBRUARY 27, 1978

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Mickey Morton, First United Methodist Church, Owenton, Kentucky.

The roll was called. All members present.

Representative Brinkley moved that the reading of the Journal of February 24, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 712, by Representative Haering: AN ACT relating to elections.

HB 713, by Representative LeMaster: AN ACT relating to attachments.

HB 714, by Representatives Kenton and LeMaster: AN ACT relating to crimes and punishments.

HB 715, by Representative LeMaster: AN ACT realting to interest rates.

HB 716, by Representative Beshear: AN ACT relating to collective bargaining.

HB 717, by Representatives Kenton, B. Richardson, J. Allen, Blandford, Bruce, Clapp, Donnermeyer, Fitzgerald, LeMaster, Mann, McBee, Stone, Weinberg and Wells: AN ACT relating to cancer and making an appropriation therefor.

HB 718, by Representative Clarke: AN ACT relating to county officials.

HB 719, by Representative Kenton: AN ACT relating to exceptional children.

HB 720, by Representative Hines: AN ACT relating to school taxes.

HCR 87, by Representatives Weinberg and Kenton: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of the feasibility and desirability of establishing a museum in Eastern Kentucky which would focus on the unique traditions of Appalachian Kentucky with special emphasis on the role of the coal miner in 20th century mountain life.

HCR 88, by Representative Noe: A CONCURRENT RESOLUTION recommending the establishment of the Kentucky Coal Mining Museum.

Senate Message

Announcing passage of **SB 88, SB 183, SB 185, SB 232, SJR 27, HB 282,** and **HJR 5.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HB 696, SB 174.**

Appropriations and Revenue: **HB 694, HB 705, HB 706, SJR 19.**

Banking and Insurance: **HB 709.**

Business Organizations and Professions: **HB 711.**

Cities: **HB 693, HB 702, HB 710, SB 249.**

Counties and Special Districts: **HB 695, HB 701, HB 704.**

Health and Welfare: **HB 707.**

Judiciary-Courts: **HJR 86, SB 233.**

Judiciary-Statutes: **HB 692, HB 698, SB 133.**

Labor and Industry: **HB 700, HB 703.**

Public Utilities and Transportation: **SB 136.**

State Government: **HB 697, HB 699, HB 708, HCR 85, SB 163, SB 214, SB 222.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Elections and Constitutional Amendments: **HB 610, HB 684, HCR 73, SB 245.**

Judiciary-Statutes: **HB 259.**

Judiciary-Courts: **HB 649.**

State Government: **SB 70, SB 109, SB 112, HCR 68, HR 71.**

Report of Committees

The Committee on Rules reported **HB 399, HB 217, HB 283, HB 407, HB 411, HB 480, HB 92, HB 93, HB 188, HB 496, HB 552, SB 60, SB 79,** and **SB 181** have been posted for passage in Orders of the Day, February 27, 1978.

The Committee on Rules reported **HB 313** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules reported **SB 172** has been recommitted to the Committee on Health and Welfare.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

The Committee on Appropriations and Revenue reported **HB 253,** with Committee Substitute attached thereto, and **HB 567,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 253, AN ACT relating to litter.

WHEREAS, there has been an increase in litter and littering in all areas of the state of Kentucky due at least in part to the increased mobility of the citizens of the state and visitors to the state, the increased consumption of food, beverages and other products away from the home and other changes in the standards and modes of living of the public; and,

WHEREAS, there is insufficient public awareness of the extent of litter and littering in the state; and that current efforts to motivate the public to cease littering and cleanup litter are inadequate; and,

WHEREAS, current efforts and expenditures to enforce laws against littering, to cleanup and collect litter, to recover and recycle waste materials, and to study and adopt new and innovative methods for dealing with litter and littering are inadequate; and,

WHEREAS, those businesses whose products significantly contribute to litter in the state have a responsibility to financially assist in programs of litter reduction and materials recycling; and, WHEREAS, the Commission on Solid Waste has recommended that this bill be submitted to the General Assembly, it shall not be the policy of the Commonwealth that this Act substitute for a Bottle Bill or any other such source reduction and conservation measures;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the resource conservation, recovery and beautification act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The legislature declares that it is the purpose of this Act to promote state-wide programs under the responsibility of a single agency to reduce litter and littering, to recover and recycle waste materials with the consequent conservation of resources and energy and to foster an attitude on the part of the citizens of the state which will result in a state-wide environment as totally litter-free as is possible. The intent of the legislature is to add to and coordinate, and not to replace, existing efforts in the areas of litter control and reduction, source separation and recycling, and research relating to resource recovery. Where feasible, it is further the intent of the legislature to create jobs through employment of youth in litter cleanup and related activities. This program shall include:

(1) Publicity, educational and motivational campaigns to build and sustain public awareness of litter and of the unacceptability of littering, and to create a litter-free ethic;

(2) Stimulation of community pride and a desire on the part of the public to have a litter-free state;

(3) Efforts to gain a better understanding of the causes of littering and effective ways to deal with littering and litter;

(4) Encouragement of and increased funds for litter cleanup and collection, litter prevention and cleanup equipment;

(5) Stepped-up enforcement of laws to control and reduce litter and littering; and,

(6) Encouragement and funding of source separation and materials recycling programs and research relating to resource recovery, designed to foster the reuse of materials with resultant savings in resources and energy.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) "Department" means the department for natural resources and environmental protection.

(2) "Fund" means the resource conservation, recovery and beautification fund.

(3) "Litter" means all waste materials including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

(4) "Litter bag" means a bag, sack or other container made of any material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft.

(5) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or other entity whatsoever.

(6) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores, parking lots, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches and bathing areas, school grounds, sporting event sites and business district sidewalks.

(7) "Recycling" means the process of separating, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and re-using the resources contained therein.

(8) "Recycling center" means a central collection point in a community for recyclable materials.

(9) "Resource recovery" means a system or process for the recovery of materials or energy or both from waste material.

(10) "Source separation" means separation by the public from their general refuse of recyclable materials.

(11) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(12) "Watercraft" means any boat, ship, vessel, barge or other floating craft.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department for natural resources and environmental protection is given the authority to administer the provisions and programs of this Act and the responsibility to achieve the purposes of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In addition to all specific responsibilities contained elsewhere in this Act, the department shall:

(1) Serve as the coordinating agency between the various government and private organizations seeking to aid in litter control and reduction, source separation and recycling efforts.

(2) Assist local governments in the adoption and revision of ordinances aimed at litter control and reduction, but in no event shall any local government enact an ordinance which imposes a tax or assessment which would duplicate the resource conservation, recovery and beautification assessment provided for in this Act.

(3) Encourage, organize, and coordinate voluntary local campaigns seeking to focus the attention of the public on programs to control and reduce litter.

(4) Encourage, organize and coordinate voluntary local source separation and recycling programs.

(5) Encourage all state and local agencies to cooperate with and aid source separation and recycling programs in whatever ways they can, including providing publicity which encourages recycling, and allowing the use of publicly owned land, buildings, or equipment for recycling efforts.

(6) Investigate the availability of, and apply for, receive and expend grants, loans or other funds available from any private or public source, and where it is deemed appropriate and feasible, to accept non-monetary funding in the form of services or equipment, for use in connection with any of the programs or purposes of this Act.

(7) Have the power to propose and adopt, rules and regulations necessary to carry out the provisions, programs, and purposes of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The environmental quality commission shall have the responsibility for advising the department with respect to the litter control and reduction source separation and recycling programs and efforts covered by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department shall engage in, provide advice on and coordinate programs designed to:

(1) Educate and increase the awareness of the public of the need for a litter-free ethic in this state.

(2) Utilize existing, and explore new, techniques and programs aimed at reducing litter and littering.

(3) Instill in the public the desire to live in an environment free from litter.

(4) Motivate the public not to litter and to engage in cleanup efforts.

(5) Advise of and encourage the enforcement of the state's anti-litter laws and regulations.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The department shall design and shall adopt by rule or regulation minimum standards for one (1) or more sizes of litter receptacles which are reasonably uniform as to shape and color, and each of which shall bear an anti-litter symbol as designated and adopted by the department. In addition, such receptacles shall be designed to attract attention, to encourage the depositing of litter, and to discourage removal or theft of the receptacle. To facilitate public recognition and use of such receptacles, the department shall attempt to emulate the anti-litter symbols and receptacles used by other states.

(2) As specified by the department and deemed necessary by it to achieve the goal of litter control and reduction:

(a) Litter receptacles meeting the minimum standards shall be placed along the public highways of the state and in all parks and such other public places;

(b) The department shall establish the minimum number of litter receptacles required to be placed in such public places. The requirement of this subsection shall be met by the use of any litter receptacle which was in use prior to the establishment of the minimum standards for litter receptacles by the department, and which adequately serves the purposes intended for such receptacles; provided, however, that the continued use shall be conditioned upon placement of the anti-litter symbol upon each receptacle.

(3) It shall be the responsibility of any person owning or operating any public place in which litter receptacles are required to procure, place and maintain such receptacles at its own expense in accordance with this section and rules and regulations adopted by the department.

(4) Compliance with this section shall include proper upkeep, maintenance and repair of litter receptacles sufficient to permit such receptacles to serve the functions for which they were designed and to prevent the appearance of such receptacles from becoming unsightly.

(5) Responsibility for the removal of litter from litter receptacles placed at publicly owned places shall remain with the public agencies performing litter removal. Removal of litter from litter receptacles placed on private property which is used by the public shall remain the responsibility of the owner of such private property. All such litter shall be disposed of in a manner acceptable to the department.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The department shall design a litter bag bearing the state-wide anti-litter symbol.

(2) To the extent economically feasible the department shall produce such litter bags and make them available to the department of transportation, bureau of vehicle registration, which shall distribute them to the owners of licensed vehicles, including owners of watercraft at the time and place of license renewal and to other public agencies for proper distribution.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In order to provide jobs and to establish litter-free areas, the department shall:

(1) Encourage the hiring of otherwise unemployable individuals for work in conjunction with this Act; and

(2) Design summer youth corps programs and grant funds, pursuant to this Act, for the use of unemployed youth on a seasonal and/or part-time basis.

(3) In designing such programs, cooperate and coordinate with federal, other governmental and private programs aimed at providing jobs for youth and otherwise unemployable individuals.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The penalties which may be levied for littering in this state and pertinent portions of this Act shall be posted at such public places as the department determines is necessary to accomplish the purposes of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) It is the express purpose of this chapter to accomplish effective litter control within the state of Kentucky; further, is a purpose of this chapter to allocate a portion of the cost of administering it to those industries whose products including the packages, wrappings and containers thereof, are reasonably related to the litter problem in arriving at the amount upon which the assessment is to be calculated; therefore, reference to "covered items" in this Act includes but is not limited to:

(a) Cigarettes and tobacco products;
(b) Soft drinks and carbonated waters;
(c) Still fruit drinks and other noncarbonated beverages, mixes, and powders, excepting natural fruit juice in either concentrated or single strength state;
(d) Alcoholic beverages;
(e) Takeout and fast foods;
(f) Candy, chewing gum, and other confections;
(g) Snack foods, including nuts and chips;
(h) Newspapers and magazines;
(i) Glass containers;
(j) Metal containers with a capacity of less than fifty-five (55) gallons;
(k) Plastic, paper and other fiber containers;
(l) Auto and truck tires and mufflers;
(m) Toiletries, nondrugstore sundry items;
(n) Pet food;
(o) Flexible packaging used to package or wrap consumer goods; and
(p) Container crowns and closures.

(2) "Seller" means any person, whether at the manufacturing, wholesale or retail level, who sells one (1) or more covered items in the regular course of business.

(3) "Gross proceeds" means the total receipts from all sales by a seller of the covered items, less expenditures for the purchase of any item in this state for the purpose of recycling such item.

(4) The assessment herein provided for shall not be applied to gross proceeds of the sales of any animal, agricultural, timber or mining products, or other substance obtained therefrom, if the seller performs only the growing, raising, harvesting or cutting function of such animal, agricultural, forest or mining product. In all other instances, the assessment shall be applied.

(5)(a) There is hereby imposed upon every person engaged within this state in business as a seller an annual resource conservation, recovery, and beautification assessment, determined pursuant to this section, according to the gross proceeds from sales of designated items in the state, excluding the gross proceeds from the sales of items for export from the state;

(b) The assessment shall be three cents (3¢) for each one hundred dollars ($100) of gross proceeds;

(c) The assessment shall be due and payable on a quarterly basis.

(6) If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this Act and which levies an assessment or tax upon any business assessed pursuant to this section, then the amount of the assessment to be levied upon said business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that such reduction shall only be authorized when funds raised by the federal assessment or tax are made available to this state for any of the activities to be funded under this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the state treasury a trust and agency fund, which shall not lapse, to be known as the resource conservation recovery and beautification fund. The department of revenue shall be responsible for collecting and receiving funds relating to this Act.

(2) All assessments, fines, appropriations, or other funds collected or received by the state treasury or appropriated pursuant to any of the provisions of this Act shall be deposited in the fund, and shall be used exclusively for the purposes set forth in this Act.

(3) The department shall allocate and distribute funds annually from the fund for grants to state government units and agencies for the purchase, installation, and maintenance of litter reduction, collection or pick-up equipment, litter receptacles and litter bags.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle is guilty of a class B misdemeanor.

(2) Any person who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a class B misdemeanor.

(3) Any person knowingly violating any provision of this Act or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.

(4) In addition to or in lieu of the penalties set forth in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

The Committee Substitute to **HB 253** is as follows:

HB 253, AN ACT relating to litter.

WHEREAS, there has been an increase in litter and littering in all areas of the state of Kentucky due at least in part to the increased mobility of the citizens of the state and visitors to the state, the increased consumption of food, beverages and other products away from the home and other changes in the standards and modes of living of the public; and,

WHEREAS, there is insufficient public awareness of the extent of litter and littering in the state; and that current efforts to motivate the public to cease littering and cleanup litter are inadequate; and,

WHEREAS, current efforts and expenditures to enforce laws against littering, to cleanup and collect litter, to recover and recycle waste materials, and to study and adopt new and innovative methods for dealing with litter and littering are inadequate; and,

WHEREAS, those businesses whose products significantly contribute to litter in the state have a responsibility to financially assist in programs of litter reduction and materials recycling; and,

WHEREAS, the Commission on Solid Waste has recommended that this bill be submitted to the General Assembly, it shall not be the policy of the Commonwealth that this Act substitute for a Bottle Bill or any other such source reduction and conservation measures;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the resource conservation, recovery and beautification act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The legislature declares that it is the purpose of this Act to promote state-wide programs under the responsibility of a single agency to reduce litter and littering, to recover and recycle waste materials with the consequent conservation of resources and energy and to foster an attitude on the part of the citizens of the state which will result in a state-wide environment as totally litter-free as is possible. The intent of the legislature is to add to and coordinate, and not to replace, existing efforts in the areas of litter control and reduction, source separation and recycling, and research relating to resource recovery. Where feasible, it is further the intent of the legislature to create jobs through employment of youth in litter cleanup and related activities. This program shall include:

(1) Publicity, educational and motivational campaigns to build and sustain public awareness of litter and of the unacceptability of littering, and to create a litter-free ethic;

(2) Stimulation of community pride and a desire on the part of the public to have a litter-free state;

(3) Efforts to gain a better understanding of the causes of littering and effective ways to deal with littering and litter;

(4) Encouragement of and increased funds for litter cleanup and collection, litter prevention and cleanup equipment;

(5) Stepped-up enforcement of laws to control and reduce litter and littering; and,

(6) Encouragement and funding of source separation and materials recycling programs and research relating to resource recovery, designed to foster the reuse of materials with resultant savings in resources and energy.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) "Department" means the department for natural resources and environmental protection.

(2) "Fund" means the resource conservation, recovery and beautification fund.

(3) "Litter" means all waste materials including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the waste of the primary processes of mining, logging, sawmilling, farming or manufacturing.

(4) "Litter bag" means a bag, sack or other container made of any material which is large enough to serve as a receptacle for litter inside a vehicle or watercraft.

(5) "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, partnership, association, firm, individual, or other entity whatsoever.

(6) "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests, including but not limited to highways or other roads upon which vehicles are moved, parks, campgrounds, trailer parks, drive-in and fast food restaurants, gasoline service stations, parking lots for taverns, shopping centers and grocery stores, parking lots, marinas, boat launching areas, boat moorage and fueling stations, public and private piers, beaches and bathing areas, school grounds, sporting event sites and business district sidewalks.

(7) "Recycling" means the process of separating, cleansing, treating, and reconstituting waste or other discarded materials for the purpose of recovering and re-using the resources contained therein.

(8) "Recycling center" means a central collection point in a community for recyclable materials.

(9) "Resource recovery" means a system or process for the recovery of materials or energy or both from waste material.

(10) "Source separation" means separation by the public from their general refuse of recyclable materials.

(11) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(12) "Watercraft" means any boat, ship, vessel, barge or other floating craft.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department for natural resources and environmental protection is given the authority to administer the provisions and programs of this Act and the responsibility to achieve the purposes of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In addition to all specific responsibilities contained elsewhere in this Act, the department shall:

(1) Serve as the coordinating agency between the various government and private organizations seeking to aid in litter control and reduction, source separation and recycling efforts.

(2) Assist local governments in the adoption and revision of ordinances aimed at litter control and reduction, but in no event shall any local government enact an ordinance which imposes a tax or assessment which would duplicate the resource conservation, recovery and beautification assessment provided for in this Act.

(3) Encourage, organize, and coordinate voluntary local campaigns seeking to focus the attention of the public on programs to control and reduce litter.

(4) Encourage, organize and coordinate voluntary local source separation and recycling programs.

(5) Encourage all state and local agencies to cooperate with and aid source separation and recycling programs in whatever ways they can, including providing publicity which encourages recycling, and allowing the use of publicly owned land, buildings, or equipment for recycling efforts.

(6) Investigate the availability of, and apply for, receive and expend grants, loans or other funds available from any private or public source, and where it is deemed appropriate and feasible, to accept non-monetary funding in the form of services or equipment, for use in connection with any of the programs or purposes of this Act.

(7) Have the power to propose and adopt, rules and regulations necessary to carry out the provisions, programs, and purposes of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The environmental quality commission shall have the responsibility for advising the department with respect to the litter control and reduction source separation and recycling programs and efforts covered by this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The department shall engage in, provide advice on and coordinate programs designed to:

(1) Educate and increase the awareness of the public of the need for a litter-free ethic in this state.

(2) Utilize existing, and explore new, techniques and programs aimed at reducing litter and littering.

(3) Instill in the public the desire to live in an environment free from litter.

(4) Motivate the public not to litter and to engage in cleanup efforts.

(5) Advise of and encourage the enforcement of the state's anti-litter laws and regulations.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The department shall design and shall adopt by rule or regulation minimum standards for one (1) or more sizes of litter receptacles which are reasonably uniform as to shape and color, and each of which shall bear an anti-litter symbol as designated and adopted by the department. In addition, such receptacles shall be designed to attract attention, to encourage the depositing of litter, and to discourage removal or theft of the receptacle. To facilitate public recognition and use of such receptacles, the department shall attempt to emulate the anti-litter symbols and receptacles used by other states.

(2) As specified by the department and deemed necessary by it to achieve the goal of litter control and reduction:

(a) Litter receptacles meeting the minimum standards shall be placed along the public highways of the state and in all parks and such other public places;

(b) The department shall establish the minimum number of litter receptacles required to be placed in such public places. The requirement of this subsection shall be met by the use of any litter receptacle which was in use prior to the establishment of the minimum standards for litter receptacles by the department, and which adequately serves the purposes intended for such receptacles; provided, however, that the continued use shall be conditioned upon placement of the anti-litter symbol upon each receptacle.

(3) It shall be the responsibility of any person owning or operating any public place in which litter receptacles are required to procure, place and maintain such receptacles at its own expense in accordance with this section and rules and regulations adopted by the department.

(4) Compliance with this section shall include proper upkeep, maintenance and repair of litter receptacles sufficient to permit such receptacles to serve the functions for which they were designed and to prevent the appearance of such receptacles from becoming unsightly.

(5) Responsibility for the removal of litter from litter receptacles placed at publicly owned places shall remain with the public agencies performing litter removal. Removal of litter from litter receptacles placed on private property which is used by the public shall remain the responsibility of the owner of such private property. All such litter shall be disposed of in a manner acceptable to the department.

SECTION 9. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The department shall design a litter bag bearing the state-wide anti-litter symbol.

(2) To the extent economically feasible the department shall produce such litter bags and make them available to the department of transportation, bureau of vehicle registration, which shall distribute them to the owners of licensed vehicles, including owners of watercraft at the time and place of license renewal and to other public agencies for proper distribution.

SECTION 10. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

In order to provide jobs and to establish litter-free areas, the department shall:

(1) Encourage the hiring of otherwise unemployable individuals for work in conjunction with this Act; and

(2) Design summer youth corps programs and grant funds, pursuant to this Act, for the use of unemployed youth on a seasonal and/or part-time basis.

(3) In designing such programs, cooperate and coordinate with federal, other governmental and private programs aimed at providing jobs for youth and otherwise unemployable individuals.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The penalties which may be levied for littering in this state and pertinent portions of this Act shall be posted at such public places as the department determines is necessary to accomplish the purposes of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) It is the express purpose of this chapter to accomplish effective litter control within the state of Kentucky; further, is a purpose of this chapter to allocate a portion of the cost of administering it to those industries whose products including the packages, wrappings and containers thereof, are reasonably related to the litter problem in arriving at the amount upon which the assessment is to be calculated; therefore, reference to "covered items" in this Act includes but is not limited to:

(a) Cigarettes and tobacco products;
(b) Soft drinks and carbonated waters;
(c) Still fruit drinks and other noncarbonated beverages, mixes, and powders, excepting natural fruit juice in either concentrated or single strength state;
(d) Alcoholic beverages;
(e) Takeout and fast foods;
(f) Candy, chewing gum, and other confections;
(g) Snack foods, including nuts and chips;
(h) Newspapers and magazines;
(i) Glass containers;
(j) Metal containers with a capacity of less than fifty-five (55) gallons;
(k) Plastic, paper and other fiber containers;
(l) Auto and truck tires except recapped and retreaded tires;
(m) Toiletries, nondrugstore sundry items;
(n) Pet food;
(o) Flexible packaging used to package or wrap consumer goods; and
(p) Container crowns and closures.

(2) If any part of a product including packages, wrappings or containers thereof, is so designated as a "covered item" then the whole of the product, including the packages, wrappings or containers thereof, shall be deemed to be a "covered item";

(3) "Seller" means any person selling one or more covered items in the regular course of business in either of the following capacities:

(a) as a wholesaler selling to a retailer for resale to consumers, or
(b) as a manufacturer or processor selling directly to consumers.

(4) "Gross proceeds" means the total receipts from all sales by a seller of the covered items, less expenditures for the purchase of any item in this state for the purpose of recycling such item.

(5) The assessment herein provided for shall not be applied to gross proceeds of the sales of any animal, agricultural, timber or mining products, or other substance obtained therefrom, if the seller performs the growing, raising, harvesting or cutting function of such animal, agricultural, forest or mining product or any combination thereof. In all other instances, the assessment shall be applied.

(6)(a) There is hereby imposed upon every person engaged within this state in business as a seller an annual resource conservation, recovery, and beautification assessment, determined pursuant to this section, according to the gross proceeds from sales of designated items;

(b) The assessment shall be three cents (3¢) for each one hundred dollars ($100) of gross proceeds;

(c) The assessment shall be reported and paid to the department of revenue on a quarterly basis on or before the twentieth (20th) day of the month after the end of each quarter. The payment shall be accompanied by a report or return in such form as the department of revenue may prescribe.

(7) If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this Act and which levies an assessment or tax upon any business assessed pursuant to this section, then the amount of the assessment to be levied upon said business under this section shall be reduced by the amount of the federal assessment or tax upon said business; provided, however, that such reduction shall only be authorized when funds raised by the federal assessment or tax are made available to this state for any of the activities to be funded under this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the state treasury a trust and agency fund, which shall not lapse, to be known as the resource conservation recovery and beautification fund. The department of revenue shall be responsible for collecting and receiving funds relating to this Act.

(2) All assessments, fines, appropriations, or other funds collected or received by the state treasury or appropriated pursuant to any of the provisions of this Act shall be deposited in the fund, and shall be used exclusively for the purposes set forth in this Act.

(3) The department shall allocate and distribute funds annually from the fund for grants to state government units and agencies for the purchase, installation, and maintenance of litter reduction, collection or pick-up equipment, litter receptacles and litter bags.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle is guilty of a class B misdemeanor.

(2) Any person who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a class B misdemeanor.

(3) Any person knowingly violating any provision of this Act or any rule or regulation adopted hereunder shall be guilty of a class B misdemeanor.

(4) In addition to or in lieu of the penalties set forth in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

SECTION 15. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) If any seller fails or refuses to file a return or furnish any information requested in writing by the department, the department of revenue may, from any information in its possession, make an estimate of the seller's gross proceeds and issue an assessment against such seller based on the estimated gross proceeds and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other applicable penalties in this chapter.

(2) If any seller fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department of revenue, then, unless it is shown to the satisfaction of the department of revenue, that the failure is due to reasonable cause, five percent (5%) of the assessement found to be due by the department of revenue shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment, provided, however, that in no case shall the penalty be less than ten dollars ($10).

(3) If the assessment imposed by this chapter, whether assessed by the department of revenue, or the seller, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the department of revenue.

HB 567, AN ACT relating to the power equalization program fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.565 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary, the board of education of any district in any year in which the total school tax rate, less any special voted building fund tax rate and any sinking fund tax rate, is less than the maximum rate supported by the district power equalization program *in that or the next subsequent school year,* as provided for in KRS 157.555 and 157.560, *shall have the authority to raise the maximum permissible local ad valorem tax rate as provided in KRS 160.470 to an amount not to exceed ten cents ($.10) for the school year beginning on July 1, 1978, and a rate not to exceed fifteen cents ($.15) for the school year beginning July 1, 1979 after compliance with the following:*

(a) The district board of education shall give notice of the proposed rate increase. Notice shall be given by causing to be published at least one (1) time in a newspaper of general circulation in the district, or in any other good faith manner if there is no such newspaper, the fact that such rate is being levied. Such advertisement shall state that the district board of education will meet at a place and on a date fixed in the

advertisement, not earlier than one (1) week and not later than two (2) weeks from the date of the advertisement, for the purpose of hearing comments and complaints regarding the proposed increase and explaining the reasons for such proposal.

(b) The order or resolution levying the school tax designated heretofore in this section shall go into effect not less than thirty (30) days nor more than one hundred twenty (120) days after its passage. If during the thirty (30) days immediately following the passage of the order or resolution a petition signed by a number of registered and qualified voters equal to twenty-five percent (25%) of the votes cast in the school district or combined taxing district levying the tax for the office receiving the greatest total vote at the last preceding presidential election is presented to the school board protesting against passage of the order or resolution, the order or resolution shall be suspended from going into effect for that district until after the election provided for in subsection (c) of this section. Each sheet of the petition shall contain the names and addresses of voters in but one (1) voting precinct and each sheet shall state the name, number, or designation of the precinct and, where applicable, the name, number or designation of the district or ward wherein the precinct is situated. Each voter shall sign his name in the same manner as he signed the current registration form described in KRS 116.155 or subsection (2) of KRS 116.045, as the case may be. If the signature is difficult to read, the voter shall, on the same line legibly write or print his name in the same fashion as he signed it. One or more persons shall verify by affidavit the signatures and addresses of the signers of the petition. The board or boards of registration in the county shall provide necessary and appropriate aid to the school board or boards so that the latter may make the determination of whether the petition contains enough signatures of qualified voters to suspend the effect of the order or resolution.

(c) Thereupon, if it has been determined that the petition contains enough valid signatures to suspend the effect of the order or resolution, the county board of elections shall submit to the voters of the school district in which a valid recall petition has been filed pursuant to subsection (b) of this section at the next regular May or November election the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer, "for" or "against". If a majority of the votes cast in a district upon the question oppose its passage, the order or resolution shall not go into effect in that district. If a majority of the votes cast in a district upon the question favor its passage, the order or resolution shall go into effect in that district. In the event that the election is to be held in more than one (1) school district within a county the votes shall be counted separately.

(2) In the event a school district tax rate is not sufficient to qualify the school district for matching funds from the power equalization fund under the provisions of KRS 157.545 through 157.575 and the school district does not elect to levy an additional ad valorem tax as provided for in subsection (1) of this section, school districts levying any of the permissive taxes provided for in KRS 160.482 through 160.648 may in accordance with regulations of the state board for elementary and secondary education recommended by the superintendent of public instruction substitute revenue from such levy to the extent that such revenue would match the maximum rate supported by the power equalization program [may request the local tax levying authority to increase the rate in any amount not to exceed the maximum rate supported by the district power equalization program. The levying authority shall adopt an ordinance or resolution submitting to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy the rate requested by the board not to exceed the rate authorized by the voters].

Section 2. KRS 157.570 is amended to read as follows:

For each school year the executive department for finance and administration, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the state power equalization support due each district. Checks shall be issued by the state treasurer and transmitted to the department of education for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and rules and Kentucky administrative regulations of the state board *for elementary and secondary* [of] education. The superintendent of public instruction shall determine on or before July 1 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.545 to 157.575. This allotment will be based on the prior year's school tax rate. Beginning July 1 of each year and on *a quarterly basis thereafter, one-fourth (1/4) of each district's share of the state power equalization support shall be distributed. On or before April 1 of each year, the superintendent of public instruction shall determine the exact amount of the state power equalization support to which each district is entitled and the remainder of the amount due each district for the year shall be distributed.* [the first of each month thereafter, one-twelfth (1/12) of each district's share of the state power equalization support shall be distributed. On or before March 1 of each year, the superintendent of public instruction shall determine the exact amount of the state power equalization support to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of the final calculation and for each successive month thereafter.]

Section 3. Whereas, many school districts will not have a tax rate sufficient to participate in the power equalization fund during the school year beginning July 1, 1978, and it is the intention of the general assembly to afford the citizens of such districts an opportunity to express their will with regard to such participation in the May 1978 election, an emergency is declared and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment to **HB 567** is as follows:

Amend printed copy of **HB 567,** page 2, line 15, by deleting "*twenty-five*" and inserting in its palce " *fifteen*";

line 16, by deleting "*(25%)*" and inserting in its place "*(15%)*"

The Committee on Education reported **HJR 61,** with Committee Amendment attached thereto, and **SB 182** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 61, A RESOLUTION directing the Legislative Research Commission to establish a special subcommittee to study the low incidence of admission of rural Kentuckians to professional schools.

WHEREAS, there exists a shortage of doctors, dentists and lawyers in rural areas of the Commonwealth of Kentucky; and

WHEREAS, the area in which a professional chooses to practice is influenced by the area in which he has grown up and has his roots; and

WHEREAS, a disproportionately small percentage of Kentuckians from rural areas are admitted to the professional schools of medicine, dentistry and law in the Commonwealth of Kentucky; and

WHEREAS, the causes of the low incidence of admission of rural Kentuckians has not been determined and procedures have not been implemented to correct this inequity.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission shall establish a special subcommittee to study the problem of the relatively low percentage of Kentuckians from rural areas entering the professional schools of medicine, dentistry and law.

Section 2. The special subcommittee shall be composed of eleven members as follows: seven members of the General Assembly, four of whom shall be from predominately rural constituencies, to be appointed by the Legislative Research Commission; a total of three deans from Kentucky professional schools, one each from medicine, dentistry and law, to be selected by the chairman of the Council on Higher Education; and the Executive Director of the Council on Higher Education.

Section 3. The study shall focus on determination of the causes of the relatively low incidence of professional school applications and admissions from rural areas in the state and seek feasible means of insuring that more rural Kentuckians apply and are admitted to professional programs in the state.

Section 4. The study shall be completed and reported to the Legislative Research Commission and the Interim Joint Committee on Education not later than June 1, 1979.

Section 5. Staff services to be utilized in completing this study are estimated to cost $12,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Amendment to **HJR 61** is as follows:

Amend printed copy of **HJR 61,** page 2, line 7 after; before a, the vice president of the Medical Centers at the University of Kentucky and the University of Louisville, and the Dean of the Northern Kentucky University Law School

SB 182, AN ACT relating to times for payment of salaries to certified school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) All certified school employes holding a limited or continuing service contract, as defined in KRS 161.720, shall be paid regularly, on dates determined by the employing board of education, during the school year. The gross salary received on each pay date will be an amount equal to the certified school employe's annual salary divided by the number of pay dates. Said salary amounts shall be paid on the prescribed pay dates without deduction for days on which schools were closed.

(2) Gross salary payments under subsection (1) of this section need not, but may, include pay for extra duties or services. Payment for such extra duties or services must be paid pursuant to a payment plan adopted by the board of education prior to the beginning of the school year.

(3) Payments made by the board of education under the authority of this section are deemed to be for services rendered and for the benefit of the common schools; the payments do not affect the eligibility of any school system to participate in the foundation program as established in KRS Chapter 157. Nor shall any individual board member or administrator be held liable where additional payments for such service becomes necessary. Provided, however, that nothing in this Act authorizes or requires the payment of salaries to certified personnel when schools are closed as a reuslt of a strike or other work stoppage or when schools are open and certified personnel fail to render services. No part of this bill shall be law if any part is declared unconstitutional.

Section 2. Whereas, since the inclement weather in the school year 1977-78 has caused teachers to go long periods of time without pay, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Cities reported **HB 329, HB 401, HB 423, HB 539, HB 621, HB 657, HCR 72,** and **SB 165** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 329, AN ACT Changing the classification of the City of Hillview in Bullitt County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Hillview, in Bullitt County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Hillview, in Bullitt County, is transferred from the fifth class to the fourth class of cities.

HB 401, AN ACT relating to police and fire departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95.470 is amended to read as follows:

(1) No person shall be appointed a member of the police or fire department in cities of the second and third classes or urban-county governments on account of any political service, contribution, sentiment or affiliation. No member shall be dismissed, suspended or reduced in grade or pay for any political opinion.

(2) The appointment and continuance in office of members of the police or fire department shall depend solely upon their ability and willingness to enforce the law and comply with the rules of the department, and shall not be a reward for political activity or contribution to campaign funds.

(3) No member of either department shall *be forced to* pay or collect any assessments made by political organizations, contribute to political campaign funds, *or* be active in politics [or work for the election of candidates for office].

(4) No member of either department shall be active in politics or work for the election of candidates while on duty.

HB 423, AN ACT relating to supervision and control of the electric plant.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.780 is amended to read as follows:

(1) After a board has been appointed and qualified, it shall have charge of the general supervision and control of the acquisition, improvement, operation and maintenance of the electric plant of the municipality. The board shall employ an electric plant superintendent (herein called "superintendent"), who shall be qualified by training and experience for the general superintendence of the acquisition, improvement and operation of the electric plant. His salary shall be fixed by the board. The superintendent shall be removable by the board for inefficiency, neglect of duty, misfeasance, or malfeasance in office. He shall be required to execute a bond, in a sum to be determined and approved by the board, conditioned upon the faithful performance of his official duties. The cost of the bond may be charged as an expense of the operation of the electric plant.

(2) Within the limits of the funds available therefor, all powers of a municipality to acquire, improve, operate and maintain, and to furnish electric service, and all powers necessary or convenient thereto, conferred by KRS 96.550 to 96.900, shall be exercised on behalf of the municipality by the board and the superintendent, respectively. Subject to the provisions of applicable bonds or contracts, the board shall determine programs and make all plans for the acquisition of the electric plant, shall make all determinations as to improvements, rates and financial practices, may establish such rules and regulations as it deems necessary or appropriate to govern the furnishing of electric service, and may disburse all moneys available in the electric plant fund hereinafter established for the acquisition, improvement, operation and maintenance of the electric plant and the furnishing of electric service.

(3) A copy of the schedule of the current rates and charges in effect from time to time and a copy of all rules and regulations of the board relating to electric service shall be kept on public file at the main and all branch offices of the electric plant and also in the office of the municipal clerk or recorder. The superintendent shall have charge of all actual construction, the immediate management and operation of the electric plant and the enforcement and execution of all rules, regulations, programs, plans and decisions made or adopted by the board.

(4) The superintendent shall appoint all employes and fix their duties and compensation subject to and with the approval of the board. Subject to the limitations and provisions of KRS 96.550 to 96.900, the superintendent, with the approval of the board, may acquire and dispose of all property, real and personal, necessary to effectuate the purposes of KRS 96.550 to 96.900. The title to all property purchased or acquired shall be taken in the corporate name of the board.

(5) The superintendent shall let all contracts, subject to the approval of the board, but may, without such approval, obligate the electric plant on purchase orders up to an amount to be fixed by the board, not to exceed five *thousand* [hundred] dollars *($5,000)* [($500)]. All contracts shall be in the corporate name of the board and shall be signed by the superintendent and attested by the secretary-treasurer or chairman of the board. The superintendent shall make and keep or cause to be made and kept full and proper books and records, subject to the supervision and direction of the board, and the provisions of applicable contracts.

HB 539, AN ACT assigning the classification of the City of Neon-Fleming in Letcher County.

WHEREAS, the City of Neon being a city of the fifth class and the City of Fleming being a city of the sixth class have merged; and

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the merged City of Neon-Fleming, in Letcher County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Neon-Fleming, in Letcher County, is classified as a city of the fifth class.

HB 621, AN ACT changing the classification of the City of Paris, in Bourbon County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Paris, in Bourbon County, is such as to justify its being classified as a city of the third class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Paris, in Bourbon County, is transferred from the fourth class to the third class of cities.

HB 657, AN ACT relating to waterworks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

(1) The city council of cities of the third class which have acquired a waterworks or a waterworks and sewerage system pursuant to KRS 96.350, and which are operating under the council form of government, shall, by ordinance, establish either a waterworks commission or a waterworks and sewerage commission. The ordinance shall require the appointment of the commission in one (1) month from the passage of the ordinance. No two (2) members of the commission shall be selected from the same ward. The commission shall be appointed by the mayor, and shall consist of the mayor, who shall be a non-voting ex-officio member and five (5) freehold electors of the city who have been bona fide residents of the city for two (2) years next before their appointment. One (1) member shall be a member of the city legislative body. No appointed member shall be related to the mayor or a member of the city council within the third degree of consanguinity or affinity under the civil law.

(2) The members of the commission shall enter upon the discharge of their duties as soon as appointed, and shall hold office four (4) years and until their successors are appointed and qualified, except that the member of the commission who is a member of the city legislative body shall hold office for one (1) year and until his successor is appointed and qualified. Any vacancy shall be filled in the same way the original appointments were made. The compensation of members shall be fixed by the city council prior to their appointment. The commission shall hold at least one (1) meeting each month, or more if required. Meetings shall be held at stated times, except special meetings.

(3) The commission may designate a member to act as chairman in the absence of the mayor, with the same powers the mayor would have if presiding. Three (3) members shall constitute a quorum. The mayor or any two (2) members may call a special meeting. The city auditor shall be ex-officio clerk of the commission and custodian of its records. Copies of its records attested by him as clerk shall be competent evidence in all courts.

HCR 72, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of alternate methods of pooling city pension funds to increase investment yields.

WHEREAS, financial liabilities incurred through pension fund obligations have become of increasing concern to Kentucky city officials and members of the various pension systems; and

WHEREAS, earning adequate returns on pension fund investments is an important method of reducing the costs of pension plans; and

WHEREAS, survey results from a study of city pension systems conducted pursuant to 1976 **HR 104** revealed that many Kentucky cities are earning inadequate returns on their pension fund investments; and

WHEREAS, many city pension systems are too small to economically employ professional investment counsel; and

WHEREAS, pooling of city pension funds for investment purposes would enable cities cooperatively to achieve the scale necessary to employ professional investment counsel on an economical basis; and

WHEREAS, the governments of Kentucky cities and their employes both have a vital interest in improving yields on invested pension funds;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to conduct a study of alterntive methods for pooling the investment funds of city administered pension systems for the purpose of earning greater yields on investments for each participating pension system.

Section 2. The Kentucky Municipal League, the administrators of the various city pension systems, the Associated Professional Firefighters of Kentucky, the Fraternal Order of Police, and representatives of non-uniformed membersof the various city pension plns are requested to cooperate in this study by providing to the Legislative Research Commission all necessary information on their city pension fund investment practices and preferences.

Section 3. To assist in this study the Legislative Research Commission shall employ a consultant qualified to advise on investment practices.

Section 4. The Legislative Research Commission shall complete the study and report its findings to the appropriate interim committee no later than April 1, 1979.

Section 5. Staff services and consulting fees to be utilized in completing this study are estimated to cost $11,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 165, AN ACT changing the classification of the City of Lyndon, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Lyndon, in Jefferson County, is such to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Lyndon, in Jefferson County, is transferred from the sixth class to the fifth class of cities.

Calendar

HB 305, HB 457, HB 531, HB 532, HB 80, and **HB 616** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 1, SB 17, SB 19, SB 37, SB 50,** and **SB 104** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Motions, Petitions and Communications

Representative B. Richardson moved that **HB 332** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Boswell, **HB 690;** Representative DeFalaise, **HB 714;** Representative Gay, **HB 518;** Representative Kidd, **HB 691;** Representative Layman, **HB 517;** Representative F. Smith, **HB 60;** Representative Stewart, **HB 690.**

Representative Sale moved the adoption of the following Legislative Citation No. 44:

The House of Representatives of the Commonwealth of Kentucky hereby commends Will Hatfield, son of Mr. & Mrs. Jack Hatfield, for his patriotism demonstrated in carrying the Christian flag and leading in the pledge in the Bicentennial Celebration on July 4, 1976. Will is a junior at Anderson County High School, an acolyte in his church and has been confirmed as a full-member in the United Methodist Church. We are proud of Will. (Sponsored by Representative Sale)

Agreed.

Representative Sale moved the adoption of the following Legislative Citation NO. 39:

The House of Representatives of the Commonwealth of Kentucky hereby commends Mike Kinne, son of Mr. & Mrs. George Kinne, Anderson County, for his patriotism demonstrated in carrying the American flag and leading 3,000 people in the pledge of Allegiance to the flag in the Bicentennial Celebration July 4, 1976. He also carried the American flag during the two-mile Chamber of Commerce Parage, December 1976. Mike is twelve years old, an active member of the Sunday School, an acolyte, and he has been confirmed as a full member of the United Methodist Church. We are proud of Mike. (Sponsored by Representative Sale)

Agreed.

Representative Richards moved that **SB 33** be taken from the Clerk's desk and placed in Orders of the Day. Agreed.

Representative Dunn moved that **HB 705** be taken from the Committee on Appropriations and Revenue and reassigned to the Committee on Elections and Constitutional Amendments. Agreed.

Orders of the Day

SB 38 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the following Floor Amendment No. 1 to **SB 38:**

Amend printed copy of **SB 38,** page 1, line 1, by adding the following after "Section 1."
"KRS 157.350 is amended to read as follows:
Each district which meets the following requirements shall be eligible to share in the distribution of funds from the public school foundation program funds:

(1) Employs and compensates all teachers for not less than 185 days, Provided, That the state board of education, upon recommendation of the superintendent of public instruction, shall prescribe procedures whereby this requirement may be reduced during any year for any district which employs teachers for less than 185 days, in which case the eligibility of a district for participation in the public school foundation program shall be in proportion to the length of time teachers actually are employed;

(2) Operates all schools for a term as provided in KRS 158.070 and Kentucky administrative regulations of the state board of education, Provided, however, That if the school term is less than 185 days for any reason approved by the state board of education on recommendation of the superintendent of public instruction the eligibility of a district for participation in the public school foundation program fund shall be in proportion to the length of term the schools actually operate;

(3) Compensates all teachers on the basis of a single salary schedule and in conformity with the provisions of KRS 157.310 to 157.440;

(4) Makes the required local tax effort except as otherwise provided by subsection (3) of KRS 157.400;

[(5) Includes no nonresident pupils in its average daily attendance, except by written agreement with the district of the pupils' legal residence. This subsection does not apply to those pupils enrolled in an approved class conducted in a hospital;]

(5) [(6)] Any secondary school which maintains a basketball team for boys for other than intramural purposes, shall maintain the same for girls.

(6) [(7)] Any school district which fails to comply with subsection (6) shall be prohibited from participating in varsity competition in any sport for one (1) year. Determination of failure to comply shall be made by the department of education after a hearing requested by any person within the school district. A district under this subsection shall, at such hearing, have an opportunity to show inability to comply.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:
A school district may include no more than 500 nonresident pupils in average daily attendance without the written agreement of the district of the pupils' legal residence, in extreme hardship cases."

and by changing "Section 1" to "Section 3"

On the roll call the vote was yeas 33-J. Allen, Bennett, Brown, Burch, Cyrus, Dawahare, Deskins, Dunn, Fitzgerald, Gay, Gray, Guenthner, Haering, Holbrook, Holloway, LeMaster, Lindsay, Little, McBee, McKinney, Morris, Noe, Plummer, Priddy, Riner, Romines, R. Smith, Stone, Turner, Van Horn, Weinberg, Wright, Yates. Nays 29-Adams, W. Allen, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Clarke, Craddock, DeFalaise, Foster, Guy, Head, Imes, Kidd, Mann, McNutt, Patrick, Richards, B. Richardson, P. Richardson, Siemens, Stewart, Tobin, Trevey, Wells, Williams.

The Floor Amendment No. 1 to **SB 38** was adopted.

Representative Deskins moved that **SB 38**, as amended, be passed.

Representative Beshear moved that **SB 38**, as amended, be laid on the Clerk's desk.

On the roll call the vote was yeas 57-Adams, W. Allen, Bendl, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Dawahare, DeFalaise, DeMarcus, Donnermeyer, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holloway, Hurst, Imes, Johnson, Kidd, Layman, May, McBee, Morris, O'Brien, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Sale, Siemens, F. Smith, R. Smith, Stewart, Tobin, Trevey, Turner, Wells, Williams, Worthington. Nays 16-J. Allen, Bennett, Cyrus, Deskins, Dunn, Fitzgerald, Haering, Holbrook, LeMaster, Lindsay, Little, McKinney, Noe, Stone, Van Horn, Wright.

The motion that **SB 38**, as amended, be laid on the Clerk's desk was adopted.

The Speaker Pro Tempore Clapp vacated the Chair.

The Speaker assumed the Chair.

SB 58 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved that **SB 58** be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, W. Allen, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Layman, Mann, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Weinberg, White, Wilborn, Williams, Wright, Yates. Nays 7-Burnette, Crupper, Imes, LeMaster, Lindsay, Marcum, Van Horn.

SB 58 was passed and the title agreed to.

Representative Bendl moved that the vote by which **SB 58** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 350 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be reasd by title only and place upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 350** be passed.

On the roll call the vote was yeas 89-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Worthington, Wright, Yates. Nays 3-Clarke, Trevey, Wilborn.

HB 350 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 350** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 354, HB 359,** and **HJR 13** be deferred and that they retain their position in Orders of the Day. Agreed.

HR 1, with Committee Substitute No. 1 and Committee Substitute No. 2 attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and place dupon its passage. Agreed by a majority of members elected.

Representative Mann moved the adoption of the Committee Substitute No. 2 to **HB 1.** Agreed.

Representative Mann moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 1:**

Amend printed copy of **HB 1/HCS** 2, page 11, after line 3, by adding the following subsection:

"*(25) Any international airport located within the Commonwealth of Kentucky shall be eligible for a license provided for in KRS 243.030(18) and shall not be subject to limitations contained in KRS 244.290 and 244.480.*"

Agreed.

Representative Lindsay moved the adoption of the following Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 1:**

Amend printed copy of **HB 1,** Committee Substitute No. 2, page 3, delete lines 24, 25 and 26;

and on page 4, delete lines 1 through 11, and renumber the remainder of the sections

Agreed.

Representative Robinson moved the adoption of the following Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 1:**

Amend printed copy of **HB 1,** HCS 2, page 31, line 2, by adding after line 2, the following new section:

"Section 29. KRS 243.280 is amended to read as follows:

(1) A malt beverage retailer's license shall authorize the licensee to sell malt beverages at retail from the licensed premises only and to purchase malt beverages only from a brewer or distributor.

(2) After the effective date of this Act, no malt beverage retailer's license shall be issued to sell malt beverage at retail for any premises from which sixty percent (60%) of the annual gross revenues consist of selling at retail gasoline and lubricating oil or the servicing and repair of motor vehicles."

Agreed.

Representative Mann moved that **HB 1,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 57-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brinkley, Burch, Carpenter, Clapp, Clarke, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Gay, Guenthner, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Kenton, Kidd, Kleier, LeMaster, List, Mann, McBee, Nett, Noe, O'Brien, Petty, Plummer, Priddy, B. Richardson, P. Richardson, Riner, Schmidt, F. Smith, R. Smith, Stewart, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Yates. Nays 26-Adams, W. Allen, Arnold, Boswell, Brown, Bruce, Burnette, Crupper, DeMarcus, Fitzgerald, Foster, Gray, Guy, Imes, Layman, Lindsay, Marcum, Maynard, McNutt, Rattliff, Richards, Sale, Stone, Wells, Worthington, Wright.

HB 1, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 1,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 152, with Committee Substitute attached threto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved the adoption of the Committee Substitute to **HB 152.** Agreed.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 152:**

Amend printed copy of **HB 152** Committee Substitute, page 9, line 16, after the sylable "*nance.*" insert the following:

"*The fiscal court shall forward a copy of each ordinance which is to be enforced throughout the entire area of the county to the mayor or chairman of the board of trustees of each city in the county.*"

Agreed.

Representative Fitzgerald moved the adoption of the following Floor Amendment No. 2 to the Committee Substitute to **HB 152:**

Amend printed copy of **HB 152** Committee Substitute, page 20, line 16, after "Section 16." insert the following:

"A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 67.710(7) the county judge/executive of any county may appoint a deputy who shall serve at his pleasure. Such deputy may exercise all administrative powers, duties, and responsibilities of that office, and may assume such other responsibilities as shall be prescribed in the administrative code of the county.";

and on page 20, line 16, before "KRS 36.090," insert the following: "Section 17.";

and on page 21, line 20, delete "Section 17." and insert therefor: "Section 18."

Agreed.

Representative Clapp moved the adoption of the following Floor Amendment No. 3 to the Committee Substitute to **HB 152:**

Amend printed copy of Committee Substitute for **HB 152,** page 7, lines 18 and 19, after the word "of" by deleting the words "public utilities including but not limited to water, sewage disposal, gas and electricity;" and inserting in lieu thereof the words "water and sewage and garbage disposal service but not gas or electricity;"

and on page 7, lines 20 and 21 after the word "of" by deleting the words "public utilities including but not limited to".

Agreed.

Representative Fitzgerald moved that **HB 152,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was yeas 92-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Noe, O'Brien, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright, Yates. Nays 0.

HB 152, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 152,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 194 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 194** be passed.

On the roll call the vote was yeas 61-Adams, J. Allen, Bendl, Blandford, Blythe, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Cyrus, Dawahare, Deskins, Donnermeyer, Fitzgerald, Foster, Gray, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Kenton, Layman, LeMaster, List, Little, Mann, Marcum, Maynard, McBee, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 19-W. Allen, Beshear, Boatwright, Crupper, Davenport, DeMarcus, Dunn, Gay, Guenthner, Haering, Imes, Johnson, Lindsay, McKinney, McNutt, Patrick, Trevey, Van Horn, Wright.

HB 194 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 194** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 250** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 262 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved the adoption of the following Floor Amendment No. 1 to **HB 262:**

Amend printed copy of **HB 262,** page 2, line 16, add after *28*: of the following year after purchase except for those members who will not be members of the legislature for that year. The outgoing members special legislative plates shall expire on December 31 of the year purchased.

Agreed.

Representative Romines moved that **HB 262,** as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 262, as amended, was passed and the title agreed to.

Representative Romines moved that the vote by which **HB 262,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 380 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maynard moved that **HB 380** be passed.

On the roll call the vote was yeas 80-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Hines, Holloway, Hurst, Imes, Isler, Johnson, Kidd, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Noe, O'Brien, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Worthington, Wright, Yates. Nays 3-J. Allen, Kenton, Weinberg.

HB 380 was passed and the title agreed to.

Representative Maynard moved that the vote by which **HB 380** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 282** and **HJR 5** had been examined and found correctly enrolled. **HB 282** and **HJR 5** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 398 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 398** be passed.

On the roll call the vote was yeas 75-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boswell, Brown, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, Nett, Noe, O'Brien, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Williams, Worthington, Wright, Yates. Nays 0.

HB 398 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 398** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 251** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 15, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majortiy of members elected.

Representative Kleier moved the adoption of the Committee Substitute to **HB 15.** Agreed.

Representative Kleier moved that **HB 15** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-W. Allen, Burnette, Crupper, Guenthner, Holbrook, Layman, Tobin, Trevey.

HB 15, by way of Committee Substitute, was passed and the title agreed to.

Representative Kleier moved that the vote by which **HB 15,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 60, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stone moved the adoption of the Committee Substitute to **HB 60.** Agreed.

Representative Stone moved that **HB 60,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 84-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Layman, LeMaster, List, Little, Marcum, May, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates. Nays 8-Blythe, Carpenter, Clarke, Jones, Mann, Maynard, Nett, Trevey.

HB 60, by way of Committee Substitute, was passed and the title agreed to.

Representative Stone moved that the vote by which **HB 60,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 128 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and place d upon its passage. Agreed by a majority of members elected.

Representative Adams moved that **HB 128** be passed.

On the roll call the vote was yeas 83-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Head, Holbrook, Holloway, Isler, Jones, Kenton, Kidd, Kleier, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, , Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 4-W. Allen, Guenthner, LeMaster, Plummer.

HB 128 was passed and the title agreed to.

Representative Adams moved that the vote by which **HB 128** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 219** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 233 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved that **HB 233** be laid on the Clerk's desk.

On the roll call the vote was yeas 27-Bennett, Benson, Beshear, Blythe, Boswell, Crupper, Cyrus, Dawahare, Deskins, Gray, Hines, Isler, Kidd, Kleier, Little, McKinney, Nett, Noe, Overstreet, Petty, Siemens, F. Smith, Stone, Weinberg, White, Wilborn, Williams. Nays 62-Adams, J. Allen, W. Allen, Arnold, Blandford, Boatwright, Bruce, Burnette, Clapp, Clarke, Craddock, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Johnson, Jones, Kenton, Layman, LeMaster, Lindsay, List, Mann, Marcum, Maynard, McBee, McNutt, Morris, O'Brien, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, R. Smith, Stewart, Tobin, Trevey, Turner, Van Horn, Wells, Wright, Yates.

The motion that **HB 233** be laid on the Clerk's desk was rejected.

Representative B. Richardson moved that **HB 233** be passed.

On the roll call the vote was yeas 65-Adams, J. Allen, W. Allen, Arnold, Bennett, Blandford, Boatwright, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Holbrook, Holloway, Hurst, Imes, Johnson, Jones, Layman, LeMaster, Lindsay, List, Mann, Marcum, McBee, McNutt, Morris, O'Brien, Patrick, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, Wright, Yates. Nays 28-Benson, Beshear, Blythe, Boswell, Brown, Crupper, Cyrus, Dawahare, Deskins, Gray, Head, Hines, Isler, Kenton, Kidd, Kleier, Little, Maynard, McKinney, Nett, Noe, Overstreet, Siemens, F. Smith, Weinberg, White, Wilborn, Williams.

HB 233 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 233** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Recess

Representative B. Richardson moved that the House recess until 7:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (continued)

HB 219, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 219.** Agreed.

Representative Bendl moved that **HB 219,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 68-Adams, J. Allen, W. Allen, Arnold, Bendl, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Fitzgerald, Foster, Gay, Gray, Guy, Hancock, Head, Isler, Johnson, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Marcum, Maynard, McBee, McKinney, McNutt, Noe, Overstreet, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington. Nays 0.

HB 219, by way of Committee Substitute, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 219,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 236 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and place upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 236** be passed.

On the roll call the vote was yeas 63-Adams, J. Allen, Arnold, Bendl, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Fitzgerald, Foster, Gray, Guy, Hancock, Head, Isler, Johnson, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Marcum, Maynard, McBee, McKinney, Morris, Noe, Overstreet, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Robinson, Sale, Schmidt, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington. Nays 0.

HB 236 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 236** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 266** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 250, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved the adoption of the Committee Amendment No. 1 to **HB 250.** Agreed.

Representative Pearman moved the adoption of the following Floor Amendment No. 1 to **HB 250:**

Amend printed copy of **HB 250,** page 2, line 7, by adding before the word "twelve (12)" the words "*eight (8) [*" and by adding a "]" after the word "twelve (12)".

On the roll call the vote was yeas 32-J. Allen, Beshear, Blandford, Boswell, Clarke, Craddock, Davenport, Dawahare, Dietz, Gay, Guy, Head, Isler, Jones, LeMaster, Little, Maynard, McBee, McNutt, Morris, Noe, Petty, B. Richardson, Robinson, Stewart, Thomas, Tobin, Turner, Van Horn, Wells, Wilborn, Worthington. Nays 25-Adams, W. Allen, Arnold, Bendl, Boatwright, Brinkley, Carpenter, Crupper, Cyrus, DeFalaise, DeMarcus, Deskins, Foster, Gray, Johnson, Kenton, Layman, Lindsay, Marcum, Overstreet, Plummer, Rattliff, Richards, Trevey, White.

The Floor Amendment No. 1 to **HB 250** was adopted.

Representative Pearman moved that **HB 250,** as amended, be passed.

On the roll call the vote was yeas 62-Adams, J. Allen, Arnold, Blandford, Boatwright, Boswell, Brinkley, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Fitzgerald, Foster, Gay, Gray, Guy, Head, Isler, Johnson, Jones, Kenton, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McKinney, McNutt, Morris, Noe, Overstreet, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, Wilborn, Worthington. Nays 3-Beshear, DeMarcus, Hancock.

HB 250, as amended, was passed and the title agreed to.

Representative Pearman moved that the vote by which **HB 250,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 445 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 445** be passed.

Representative Thomas moved the adoption of the following Floor Amendment No. 1 to **HB 445:**

Amend printed copy of **HB 445,** page 3, line 1, by inserting after the first "the" the words "occupation, residence," On the roll call the vote was yeas 8-Crupper, Hancock, Layman, LeMaster, Maynard, Petty, F. Smith, Thomas. Nays 53-Adams, J. Allen, W. Allen, Arnold, Bendl, Blandford, Boswell, Brinkley, Bruce, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Fitzgerald, Gay, Gray, Guenthner, Guy, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, List, Little, Marcum, May, McNutt, Morris, Noe, O'Brien, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Stewart, Trevey, Turner, Van Horn, Weinberg, White, Worthington.

The Floor Amendment No. 1 to **HB 445** was rejected.

Representative Morris moved that **HB 445** be passed.

On the roll call the vote was yeas 74-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Fitzgerald, Gay, Gray, Guenthner, Guy, Hancock, Head, Holbrook, Holloway, Imes, Isler, Kenton, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, Morris, Nett, Noe, O'Brien, Ovestreet, Pearman, Petty, Plummer, Priddy,Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, Stewart, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Yates. Nays 9-DeMarcus, Foster, Johnson, Kleier, Layman, LeMaster, McKinney, McNutt, Wright.

HB 445 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 445** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Senate Message

Announcing passage of **SB 46, SB 47, SB 59, SB 113, SB 146, SB 187, SB 199, SB 207, SB 216, SB 260, SB 276, SB 287, HB 90, HB 31** with Amendment, and **SB 191.**

Orders of the Day (contiuned)

HB 446 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved that **HB 446** be passed.

On the roll call the vote was yeas 80-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Bruce, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 5-DeFalaise, Layman, McNutt, Schmidt, Tobin.

HB 446 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 446** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 447 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved that **HB 447** be passed.

On the roll call the vote was yeas 81-J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holoway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Wright, Yates. Nays 6-Adams, Crupper, Hurst, Lindsay, McNutt, Schmidt.

HB 447 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 447** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 448 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved that **HB 448** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Wright. Nays 2-Fitzgerald, Lindsay.

HB 448 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 448** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 450 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wells moved that **HB 450** be passed.

On the roll call the vote was yeas 82-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Wright, Yates. Nays 5-Burnette, Crupper, Gray, Hancock, Imes.

HB 450 was passed and the title agreed to.

Representative Wells moved that the vote by which **HB 450** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 337 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved that **HB 337** be passed.

On the roll call the vote was yeas 53-J. Allen, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Clarke, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gray, Guenthner, Guy, Head, Holbrook, Isler, Kenton, Kleier, LeMaster, Lindsay, Little, Mayanrd, McBee, McKinney, Nett, Noe, O'Brien, Overstreet, Petty, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, F. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Wright, Yates. Nays 21-Adams, W. Allen, Burnette, Crupper, DeFalaise, DeMarcus, Gay, Hancock, Holloway, Imes, Layman, List, McNutt, Morris, Patrick, Pearman, Plummer, P. Richardson, R. Smith, Tobin, Trevey.

HB 337 was passed and the title agreed to.

Representative Romines moved that the vote by which **HB 337** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 346, with Committee Amendment attached thereto, taken from Ordes of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Amendment No. 1 to **HB 346.**

On the roll call the vote was yeas 85-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Wright, Yates. Nays 1-Gray.

The Committee Amendment No. 1 to **HB 346** was adopted.

Representative Blythe moved that **HB 346,** as amended, be passed.

On the roll call the vote was yeas 96-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 346, as amended, was passed and the title agreed to.

Representative Blythe moved that the vote by which **HB 346,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 396, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bennett moved the adoption of the Committee Amendment No. 1 to **HB 396.** Agreed.

Representative Bennett moved that **HB 396,** as amended, be passed.

On the roll call the vote was yeas 89-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 396, as amended, was passed and the title agreed to.

Representative Bennett moved that the vote by which **HB 396,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 471 taken from Orders of the Day and ordered read at length for the third time. Representative F. Smith moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 471** be passed.

On the roll call the vote was yeas 66-Adams, Arnold, Bendl, Bennett, Blandford, Boatwright, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Guy, Haering, Hancock, Head, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, LeMaster, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, Stewart, Turner, Weinberg, Wilborn, Williams, Worthington, Yates. Nays 22-J. Allen, W. Allen, Benson, Beshear, DeFalaise, Foster, Holbrook, Imes, Kleier, Layman, Lindsay, List, Mann, Overstreet, Plummer, Siemens, Stone, Thomas, Tobin, Trevey, Van Horn, Wright.

HB 471 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 471** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 481 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 481** be passed.

On the roll call the vote was yeas 77-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Guy, Haering, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, LeMaster, Lindsay, List, Little, Mann, Marcum, May, Maynard, McBee, McNutt, Morris, Nett, Noe, O'Brien, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Yates. Nays 11-J. Allen, W. Allen, Gay, Hancock, Layman, McKinney, Patrick, Pearman, Plummer, Trevey, Wright.

HB 481 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 481** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 494 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 494** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Craddock, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, LeMaster, List, Little, Mann, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 6-W. Allen, Crupper, Davenport, DeMarcus, Layman, Lindsay.

HB 494 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 494** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 517 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by tile only and placed upon its passage. Agreed by a majority of members elected.

Representative Boswell moved that **HB 517** be passed.

On the roll call the vote was yeas 89-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Marcum, May, Maynard, McBee, McKinney, McNutt, Morris, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-Clarke, Mann, O'Brien.

HB 517 was passed and the title agreed to.

Representative Boswell moved that the vote by which **HB 517** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 547** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 548 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 548** be passed.

On the roll call the vote was yeas 43-J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Burch, Carpenter, Clapp, Clarke, Dawahare, DeFalaise, Dietz, Donnermeyer, Fitzgerald, Hancock, Head, Hurst, Isler, Kenton, Kleier, Layman, LeMaster, Mann, Maynard, McBee, Nett, O'Brien, Patrick, Pearman, Petty, Priddy, Schmidt, Siemens, F. Smith, Stewart, Turner, Van Horn, Wilborn, Williams, Yates. Nays 39-Adams, Arnold, Boatwright, Brinkley, Brown, Craddock, Cyrus, Davenport, DeMarcus, Deskins, Dunn, Foster, Gay, Gray, Guenthner, Guy, Imes, Johnson, Kidd, Lindsay, Little, Marcum, May, McNutt, Noe, Plummer, Rattliff, Richards, B. Richardson, Riner, Robinson, Sale, R. Smith, Stone, Trevey, Weinberg, Wells, White, Wright.

HB 548 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 548** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 92, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 92.** Agreed.

Representative Burch moved that **HB 92,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 72-J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Bruce, Burch, Clapp, Craddock, Cyrus, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kidd, Kleier, LeMaster, List, Little, Mann, May, Maynard, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Robinson, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 17-Adams, W. Allen, Brown, Burnette, Crupper, DeFalaise, DeMarcus, Deskins, Kenton, Layman, Marcum, Pearman, Rattliff, Riner, Romines, Schmidt, Wright.

HB 92, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 92,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HR 9 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeMarcus moved that **HR 9** be passed.

Representative B. Richardson moved that **HR 9** be laid on the Clerk's desk.

On the roll call the vote was yeas 49-Adams, J. Allen, Bennett, Benson, Beshear, Blandford, Boswell, Bruce, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guenthner, Guy, Head, Isler, Johnson, Kenton, Kidd, Little, Mann, May, Maynard, McBee, Noe, Pearman, Petty, Richards, B. Richardson, P. Richardson, Siemens, F. Smith, Stewart, Stone, Thomas, Turner, Weinberg, White, Williams, Yates. Nays 26-W. Allen, Boatwright,Brinkley, Burch, Davenport, DeFalaise, DeMarcus, Fitzgerald, Gay, Haering, Hancock, Holbrook, Layman, Marcum, McKinney, McNutt, Morris, Plummer, Rattliff, Riner, Robinson, Schmidt, R. Smith, Tobin, Trevey, Van Horn.

The motion that **HR 9** be laid on the Clerk's desk was adopted.

The Speaker vacated the Chair.

The Speaker Pro Tempore presiding.

HR 44 taken from Orders fo the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pearman moved that **HR 44** be adopted.

HR 44 was adopted by voice vote.

HR 53 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of **HR 53.**

HR 53 was adopted by voice vote.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to Committee Substitute to **HB 92** by Representative B. Richardson.

Floor Amendment No. 3 to Committee Substitute to **HB 92** by Representative Kenton.

Floor Amendment No. 1 to **HB 217** by Representative Adams.

Title Amendment to Committee Substitute to **HB 219** by Representative B. Richardson.

Floor Amendment No. 2 to **HB 354** by Representative Thomas.

Floor Amendment No. 1 to Committee Substitute to **HB 219** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 405** by Representative B. Richardson.

Floor Amendment No. 2 to **HB 405** by Representative Benson.

Floor Amendment No. 3 to **HB 405** by Representative Hancock.

Floor Amendment No. 4 to **HB 405** by Representative Hancock.

Floor Amendment No. 1 to **HB 438** by Representative Maynard.

Floor Amendment No. 1 to **HB 552** by Representative Hancock.

Floor Amendment No. 2 to **HB 552** by Representative Imes.

Floor Amendment No. 3 to **HB 552** by Representative Clarke.

Floor Amendment No. 4 to **HB 552** by Representative Richards.

Floor Amendment No. 5 to **HB 552** by Representative Deskins.

Floor Amendment No. 6 to **HB 552** by Representative Adams.

Floor Amendment No. 7 to **HB 552** by Representative Boswell.

Floor Amendment No. 1 to **HB 547** by Representative B. Richardson.

Floor Amendment No. 1 to **HB 617** by Representative Weinberg.

Floor Amendment No. 1 to **SB 79** by Representative Gray.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 721, by Representative Gray: AN ACT relating to workmen's compensation.

HB 722, by Representative Imes: AN ACT relating to securities.

HB 723, by Representative Van Horn: AN ACT relating to urban-county police and firemen pension systems.

HB 724, by Representatives Cyrus and Plummer: AN ACT relating to telephone service.

HB 725, by Representatives Deskins and Little: AN ACT relating to the foundation program fund.

HB 726, by Representative Burnette: AN ACT relating to police radios.

HB 727, by Representative List: AN ACT relating to urban-county governments.

HB 728, by Representative DeFalaise: AN ACT relating to state officers and employes.

HB 729, by Representatives W. Allen, Stone, Blythe, Brinkley, and Sale: AN ACT relating to county budgets.

HB 730, by Representative Adams: AN ACT relating to public assistance.

HB 731, by Representative Fitzgerald: AN ACT relating to incompetency.

HB 732, by Representative Kenton: AN ACT relating to income taxes.

HB 733, by Representatives Worthington, White, Morris, Stewart, Turner and Van Horn: AN ACT relating to architects and engineers.

HB 734, by Representative Johnson: AN ACT relating to police and firemen pension systems in cities of the second class.

HB 735, by Representatives May, P. Richardson, Adams, Arnold, Beshear, Brown, Carpenter, Clarke, Craddock, Crupper, Cyrus, Fitzgerald, Hancock, Holbrook, LeMaster, List, McBee, McKinney, Patrick, Plummer, Sale, R. Smith, Tobin, Trevey, Wilborn and Worthington: AN ACT relating to the energy road fund.

HB 736, by Representative Pearman: AN ACT relating to sales and use taxes.

HB 737, by Representative Burnette: AN ACT relating to motor vehicle usage tax.

HB 738, by Representative Pearman: AN ACT relating to attorney's fees.

HB 739, by Representative Benson: AN ACT relating to search warrants.

HB 740, by Representative Pearman: AN ACT relating to taxes.

HB 741, by Representative Imes: AN ACT relating to the Department for Human Resources.

HB 742, by Representative DeFalaise: AN ACT relating to traffic safety.

HB 743, by Representatives Brinkley, Stone, Boatwright and Kenton: AN ACT realting to deadly weapons.

HB 744, by Representatives Williams and Kidd: AN ACT relating to cemeteries.

HB 745, by Representative Bennett: AN ACT relating to paternity and support of children.

HB 746, by Representatives Brinkley and Boatwright: AN ACT relating to corporate bodies and instrumentalities attached to various agencies and departments whose functions were transferred to human resources by the reorganization act of 1974.

HJR 89, by Representative Worthington: A JOINT RESOLUTION relating to tourism.

HCR 90, by Representative DeFalaise: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the feasibility of installing a more reliable roll call machine in the House of Representatives and telephones at each member's desk in both the House and Senate.

HJR 91, by Representative Adams: A JOINT RESOLUTION directing the study of Kentucky agricultural, commercial and industrial freight transportation needs.

HCR 92, by Representative Adams: A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study on the causes of and possible solutions for the rise in the costs and caseloads of the Aid to Families with Dependent Children (AFDC) program in the Commonwealth.

HJR 93, by Representative Burnette: A JOINT RESOLUTION directing the State Department of Education to conduct a study of small rural schools.

HCR 94, by Representative Noe: A CONCURRENT RESOLUTION requesting the United States Congress to enact legislation prohibiting the U.S. Army Corps of Engineers from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **SB 185.**

Appropriations and Revenue: **HB 718, HB 720.**

Banking and Insurance: **HB 715, SB 232.**

Business Organizations and Professions: **SB 183.**

Education: **HB 719.**

Elections and Constitutional Amendments: **HB 712.**

Health and Welfare: **HB 717, SJR 27.**

Judiciary-Statutes: **HB 713, HB 714.**

Labor and Industry: **HB 716.**

State Government: **HCR 87, HR 88.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **SB 97, HB 14, HB 643, HB 686, HB 688, HB 553, HR 38, HB 717.**

Counties and Special Districts: **HB 691.**

State Government: **HB 624, HB 479, SB 178.**

Judiciary-Courts: **HCR 80.**

Appropriations and Revenue: **HB 690, HCR 83, HB 694, HB 425.**

Judiciary-Statutes: **HB 693, HB 713, HB 714.**

Education: **HB 537, HB 568.**

Business Organizations and Professions: **HB 682, SB 226.**

Labor and Industry: **HB 700.**

Cities: **HB 702, HB 710, HB 665.**

Highways and Traffic Safety: **HB 520, HB 581, HB 584, HB 618.**

Elections and Constitutional Amendments: **SB 98.**

Adjournment

Representative B. Richardson moved that the House ajourn until 2:00 p. m., Tuesday, February 28, 1978.

On the roll call the vote was yeas 26-Arnold, Bennett, Boswell, Craddock, Deskins, Donnermeyer, Dunn, Guy, Hancock, Holbrook, Isler, Kenton, Kidd, Kleier, Mann, May, Maynard, McBee, McKinney, Morris, Nett, Pearman, Petty, B. Richardson, Weinberg, Wilborn. Nays 7-Fitzgerald, Gray, Guenthner, Imes, Priddy, Schmidt, Van Horn.

The motion to adjourn was adopted.

TUESDAY, FEBRUARY 28, 1978

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John C. Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representative Maynard.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 27, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 747, by Representative Maynard: AN ACT relating to metropolitan correctional services department employes.

HB 748, by Representatives Priddy and Yates: AN ACT relating to civil service in cities of the first class.

HB 749, by Representative Priddy: AN ACT relating to civil rights.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bils and Resolutions:

Agriculture and Natural Resources: **HJR 91.**

Appropriations and Revenue: **HB 732, HB 736, HB 737, HB 740.**

Banking and Insurance: **HB 722.**

Business Organizations and Professions: **HB 733, HB 744.**

Cities: **HB 723, HB 727, HB 734.**

Counties and Special Districts: **HB 729, SB 216, SB 287.**

Education: **HB 725, HJR 93, SB 46, SB 47.**

Health and Welfare: **HB 730, HCR 92.**

Highways and Traffic Safety: **HB 735, HB 742.**

Judiciary-Statutes: **HB 726, HB 731, HB 738, HB 739, HB 743, HB 745, SB 146, SB 207, SB 260, SB 276.**

Labor and Industry: **HB 721, SB 191.**

Public Utilities and Transportation: **HB 724, SB 199.**

State Government: **HB 728, HB 746, HJR 89, HCR 90, HR 94, SB 59, SB 113, SB 187, HB 741.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **HB 674, HB 670, HJR 86.**

Judiciary-Statutes: **HB 572, HB 651.**

Elections and Constitutional Amendments: **HB 705.**

Counties and Special Districts: **HB 704, HB 659.**

Appropriations and Revenue: **HB 261, HB 469, HB 294, HB 658, HB 608.**

Cities: **HB 693.**

Report of Committees

The Committee on Rules reported **HB 79, HB 356, HB 392, HB 603, HB 405, HB 416, HB 439, HB 441, HB 483, HB 498, HB 515, HB 523,** and **HB 616** have been posted for have been posted for passage in Orders of the Day, March 1, 1978.

The Committee on Rules reported **HB 272** has been recommitted to the Committee on Appropriations and Revenue.

The Committee on Rules reported **HB 438** has been recommitted to the Committee on Judiciary-Statutes.

The Committee on Banking and Insurance reported **HB 325** with Committee Amendment attached thereto, **HB 470, HB 491** with Committee Amendment attached thereto, **HB 559, HB 632, SB 95,** and **SB 225** with Committee Amendment attached thereto, with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 325, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-150 is amended to read as follows:
(1) Every policy shall specify:
(a) The names of the parties to the contract.
(b) The subject of the insurance.
(c) The risks insured against.
(d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.
(e) The premium.
(f) The conditions pertaining to the insurance.
(g) Benefits payable.
(2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.
(3) Subsections (1) and (2) of this section shall not apply as to surety contracts, or to group insurance policies, or to title insurance policies.
(4) If the policy is for property insurance and covers the insured's place of residence and farm, business or other income producing property, the policy shall specify what portion of the premium is allocable to the insured's place of residence, and what portion is allocable to the farm, business or other income producing property.
The Committee Amendment to **HB 325** is as follows:

Amend printed copy of House Bill 325, page 2, line 6, by inserting after end of sentence on line 6, the following: "The allocation of premium required by this section shall in no way increase the cost of property insurance to the insured."

HB 470, AN ACT relating to banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

Notice to any bank doing business in the Commonwealth of any adverse claim to a deposit standing on its books to the credit of any person shall not be effective to cause the bank to recognize the adverse claim unless the adverse claimant shall also either:

(1) Procure a restraining order, injunction, or other appropriate process against the bank from a court of competent jurisdiction, where the person to whose credit the deposit stands is made a party to the action and served with summons; or

(2) Execute to such bank, in form and with sureties acceptable to it, a bond idemnifying the bank from any and all liability, loss, damage, costs, and expenses, for and on account of the payment of the adverse claim or the dishonor of any check or other order of the person to whose credit the deposit stands on the books of the bank.

HB 491, AN ACT relating to motor vehicle reparations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-060 is amended to read as follows:

(1) Any person who registers, operates, maintains or uses a motor vehicle on the public roadways of this Commonwealth shall, as a condition of such registration, operation, maintenance or use of such motor vehicle and use of the public roadways, be deemed to have accepted the provisions of this subtitle, and in particular those provisions which are contained in this section *if he has consented to the limitations of his tort rights and liabilities as described in subsection (4).*

(2)(a) Tort liability with respect to accidents occurring in this Commonwealth and arising from the ownership, maintenance, or use of a motor vehicle is "abolished" for damages because of bodily injury, sickness or disease to the extent the basic reparation benefits provided in this subtitle are payable therefor, or that would be payable but for any deductible authorized by this subtitle, under any insurance policy or other method of security complying with the requirements of this subtitle, except to the extent noneconomic detriment qualifies under subsection (2)(b) hereof.

(b) In any action of tort brought against the owner, registrant, operator or occupant of a motor vehicle with respect to which security has been provided as required in this subtitle, or against any person or organization legally responsible for his acts or omissions, a plaintiff may recover damages in tort for pain, suffering, mental anguish and inconvenience because of bodily injury, sickness or disease arising out of the ownership, maintenance, operation or use of such motor vehicle only in the event that the benefits which are payable for such injury as "medical expense" or which would be payable but for any exclusion or deductible authorized by this subtitle exceed one thousand dollars ($1,000), or the injury or disease consists in whole or in part of permanent disfigurement, a fracture to a weight-bearing bone, a compound, comminuted, displaced or compressed fracture, loss of a body member, permanent injury within reasonable medical probability, permanent loss of bodily function or death. Any person who is entitled to receive free medical and surgical benefits shall be deemed in compliance with the requirements of this subsection upon a showing that the medical treatment received has an equivalent value of at least one thousand dollars ($1,000).

(c) Tort liability is not so limited for injury to a person who is not an owner, operator, maintainer or user of a motor vehicle within subsection (1) of this section, nor for injury to the passenger of a motorcycle arising out of the maintenance or use of such motorcycle.

(3) For purposes of this section and the provisions on reparation obligor's rights of reimbursement, subrogation, and indemnity, a person does not intentionally cause harm merely because his act or failure to act is intentional or done with his realization that it creates a grave risk of harm.

(4) Any person may [refuse to] consent to the limitations of his tort rights and liabilities as contained in this section. Such *consent* [rejection] must be in writing in a form to be prescribed by the department of insurance and must have been executed and filed with the department at a time prior to any motor vehicle accident for which such *consent* [rejection] is to apply. Such *consent* [rejection] form together with a reasonable explanation thereof shall be furnished by the reparation obligor with each policy to each prospective insurance applicant. Such *consent* [rejection] form shall affirmatively state in bold print that acceptance of this form of insurance denies the applicant the right to sue a negligent motorist unless certain requirements contained in the policy of insurance are met. *Consent* [Rejection] by a person who is under legal disability shall be made on behalf of such person by his legal guardian or his natural parent. [The failure of

such guardian or a natural parent of a person under legal disability to file a rejection, within six (6) months from the date that this subtitle would otherwise become applicable to such person, shall be deemed to be an affirmative acceptance of all provisions of this subtitle.] Provided, however, any person who, at the time of an accident, who does not have basic reparation insurance but has not formally *consented to* [rejected] such limitations of his tort rights and liabilities and has at such time in effect security equivalent to that required by KRS 304.39-110 shall be deemed to have *not consented to* [fully rejected] such limitations within meaning of this section for that accident only.

(5) Any *consent* [rejection] must be filed with the department of insurance and shall be for a period of five (5) years from the date of its execution unless revoked in writing. A copy of such *consent* [rejection] or revocation must be filed with each insurance company providing an automobile policy under which the individual is a named insured as defined in the policy.

(6) Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his right to *consent to* [reject] the limitations of his tort rights and liabilities under this subtitle in the manner provided in subsections (4) and (7) of this section.

(7) Any *failure to consent* [rejection] shall result in the full retention by the individual of his tort rights and his tort liabilities. [Any person injured by a motor vehicle operator who has such rejection on file may claim his full damages, including nonpecuniary damages, or, if such injured person has not rejected his own tort limitations, he may also claim basic reparation benefits from the appropriate security on the vehicle as established under KRS 304.39-050. If such provider of security is other than the one providing security for the operator who has rejected the limitations, such provider shall be subrogated to the rights of the injured person to the extent of reparation benefits paid against the owner and operator of the vehicle.]

(8) *Only persons who have consented to* [No person who has rejected] the tort limitations under this section, except as provided in subsection (9) of this section or KRS 304.39-140(5), may collect basic reparation benefits.

(9) Any owner or operator of a motorcycle, as defined in Kentucky Revised Statutes, may file a *consent* [rejection] as described in subsections (4) and (5), which will apply solely to the ownership and operation of a motorcycle but will not apply to injury resulting from the ownership, operation or use of any other type of motor vehicle.

Section 2. KRS 304.39-140 is amended to read as follows:

(1) On and after the effective date of this subtitle, each reparation obligor of the owner of a vehicle required to be registered in this Commonwealth shall, upon the request of a reparation insured, be required to provide added reparation benefits for economic loss in units of ten thousand dollars ($10,000) per person subject to the lesser of:

(a) Forty thousand dollars ($40,000) in added reparation benefits; or

(b) The limit of security provided for liability to any one (1) person in excess of the requirements of KRS 304.39-110(1)(a).

(2) Each basic reparation obligor shall be permitted to incorporate in added reparation benefits coverage such terms, conditions and exclusions as may be consistent with premiums charged. The amounts payable under added reparation benefits may be duplicative of benefits received from collateral source benefits, or may provide for reasonable waiting periods, deductibles or coinsurance provision. The added reparation obligor shall be subrogated, subject to KRS 304.39-070 and 304.39-300, to the injured person's right of recovery against any responsible third party.

(3) If the injured person, or injured persons, is entitled to damages under KRS 304.39-060 from the liability insurer of a second person, a self-insurer or an obligated government, collection of such damages shall have priority over the rights of the subrogee for its reimbursement of added reparation benefits paid to or in behalf of such injured person or persons.

(4) Basic reparation insurers shall make available upon request deductibles in the amounts of two hundred fifty dollars ($250), five hundred dollars ($500) and one thousand dollars ($1,000) from all basic reparation benefits otherwise payable, except that if two (2) or more basic reparation insureds to whom the deductible is applicable under the contract of insurance are injured in the same accident, the aggregate amount of the deductible applicable to all of them shall not exceed the specified deductible, which amount where necessary shall be allocated equally among them. Any person who is a basic reparation insured under an insurance policy issued with no deductible or with a deductible of a lesser amount than that under which he receives basic reparation benefits payments, shall be entitled to be paid under such policy the difference between the benefits he is actually paid and the benefits which would have been paid had his benefits been payable under such policy.

(5) Reparation obligors shall make available upon request to those persons who have *failed to consent to limitations of their tort liability* [rejected their tort limitations], in accordance with KRS 304.39-060(4), basic reparation benefits coverage and added reparation benefits.

Section 3. KRS 304.39-310 is amended to read as follows:

(1) All reparation obligors shall be obligated to provide to a reparation insured or an insured person who has *not consented to* [rejected] his tort limitations as provided in KRS 304.39-060 a certificate or other evidence of insurance whenever coverage required by KRS 304.39-110 is issued or renewed upon policy anniversary date;

(2) An owner or registrant of a motor vehicle with respect to which security is required under KRS 304.39-110, who fails to have such security when the motor vehicle is involved in an accident shall have all the rights and obligations of a reparation obligor, and any other reparation obligor which has paid or may become obligated to pay basic or added reparation benefits to an injured person under a basic or added reparation contract or under the terms of the assigned claims plan shall be subrogated to the rights of the injured person against such owner or registrant.

The Committee Amendment to **HB 491** is as follows:

Amend printed copy of House Bill 491, page 4, line 6, by removing bracket after the word "subtitle".

HB 559, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in subtitle 29), except as stated in subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations (as identified in subtitle 32) except as stated in subtitle 32.

(3) Burial associations (as identified in KRS chapter 303), except as stated in subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS chapter 299).

(5) Insurance premium finance companies (as identified in subtitle 30), except as stated in subtitle 30.

(6) A group or association of health facility and health services institutions subject to the Kentucky certificate of need, licensure and regulations act of 1972, KRS 216.405 to 216.485, composed of any number of members, who join together to self insure against professional liability or comprehensive general liability risks for bodily injury or property damage, to any one except employes for claims arising out of their employment of the members of such group, which arises out of the operation of institutions by members of the group and who comply with the following conditions:

(a) Establishment of a professional or comprehensive general liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or comprehensive general liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group;

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund.

HB 632, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-050 is amended to read as follows:

(1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this subtitle.

(2) Subject to the exception specified in subsection (3) of KRS 304.13-040 with reference to specific inland marine rates made by a rating organization, and subsections (3) and (4) of this section, each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the

waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

(3) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this subtitle until such time as the commissioner rejects the filing.

(4) The commissioner *shall* [may, when he deems it to be in the public interest,] hold a public hearing on any filing *and any and all classification and rule changes appertaining thereto* before said filing *or classification or rule changes become* [becomes] effective to determine whether or not the filing meets the requirements of this subtitle. When the commissioner has determined that a hearing shall be held relative to any filing, the filing and any supporting information filed therewith shall be open to public inspection immediately upon the giving of notice as required by this subsection. Before such hearing the rating organization or insurer making such filing shall be given ten (10) days' written notice of the time and place of such hearing, and the public shall be given notice by publication pursuant to KRS chapter 424. The commissioner shall promulgate reasonable regulations to prevent the avoidance of normal expirations and renewal dates of policies, or contracts of insurance, that may be affected by such filings. In the event that a hearing is held under the provisions of this subsection the waiting periods specified in subsection (2) of this section shall not begin to run until thirty (30) days after the close of such hearing.

(5) In the review of any filing made pursuant to KRS 304.13-040 either prior to its becoming effective, or upon a subsequent review as provided for in KRS 304.13-080, the burden of establishing that the filing under consideration meets the requirements of this subtitle shall be on the insurer or rating organization which makes such filing.

SB 95, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.6-140 is amended to read as follows:

(1) This subsection applies only to policies and contracts issued prior to January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law. Except as otherwise provided in paragraph (b) of subsection 2 of this section, the minimum standard for the valuation of all such policies and contracts shall be that provided by the laws in effect immediately prior to such date, *except that the minimum standard for the valuation of annuities and pure endowments purchased under group annuity and pure endowment contracts issued prior to such effective date shall be that provided by the laws in effect immediately prior to such date but replacing the interest rates specified in such laws by an interest rate of five percent (5%) per annum.* Reserves for all such policies and contracts may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by this subsection.

(2) This subsection applies only to policies and contracts issued on and after January 1, 1948, or such earlier date after June 13, 1944, as shall have been elected by an insurer as the date on and after which it would comply with the standard nonforfeiture law, except as otherwise provided in paragraph (b) of this subsection for group annuity and pure endowment contracts issued prior to such date.

(a) Except as otherwise provided in paragraph (b) of this subsection, the minimum standard for the valuation of all such policies and contracts shall be the commissioners reserve valuation *methods* [method] defined in KRS 304.6-150, *Section 3 of this Act, and KRS 304.6-180, five percent (5%) interest for group annuity and pure endowment contracts,* four percent (4%) interest *for all other such policies and contracts issued prior to the effective date of this Act, four and one-half percent (4-1/2 %) interest for such policies and contracts, other than annuity and pure endowment contracts, issued on or after the effective date of this Act,* and the following tables:

1. Standard ordinary mortality table. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, — the commissioners 1941 standard ordinary mortality table; Provided, however, That the commissioners 1958 standard ordinary mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1966, or such earlier date after June 16, 1960, as shall have been elected by an insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law; Provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in KRS 304.6-130 to 304.6-180, inclusive, may be calculated according to an age not more than *six (6)* [three (3)] years younger than the actual age of the insured.

2. Standard industrial mortality table. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, — the 1941 standard industrial mortality table; Provided, however, That the commissioners 1961 standard industrial mortality table shall be the table for such minimum standard for such policies issued on and after January 1, 1968, or such earlier date after June 14, 1962, as shall have been elected by the insurer as the date on and after which it would use such table as the basis for minimum cash surrender values and nonforfeiture benefits under the standard nonforfeiture law.

3. Standard annuity mortality table or annuity mortality table. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the 1937 standard annuity mortality table or, at the option of the insurer, the annuity mortality table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner.

4. Group annuity mortality table. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies — the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the insurer, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

5. Class (3) disability table. For total and permanent disability benefits in or supplementary to ordinary policies or contracts on active and disabled lives — for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the insurer, the class (3) disability table (1926), and for policies issued prior to January 1, 1961, the class (3) disability table (1926). In addition, any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

6. Inter-company double indemnity mortality table. For accidental death benefits in or supplementary to policies — for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the insurer, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

7. Group life and other tables. For group life insurance, life insurance issued on the substandard basis and other special benefits — such tables as may be approved by the commissioner.

(b) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued *prior to* [on or after] January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation *methods* [method] defined in KRS 304.6-150 *and Section 3 of this Act*, six percent (6%) interest for single premium immediate annuity contracts and four percent (4%) interest for all other contracts, and the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all annuities and pure endowments purchased *prior to* [on or after] January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation *methods* [method] defined in KRS 304.6-150 *and Section 3 of this Act*, six percent (6%) interest, and the 1971 group mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after January 1, 1979, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and Section 3 of this Act, seven and one-half percent (7-1/2 %) interest for single premium immediate annuity contracts, five and one-half percent (5-1/2 %) interest for single premium deferred annuity and pure endowment contracts and four and one-half percent (4-1/2 %) interest for all other individual annuity and pure endowment contracts, and the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all annuities and pure endowments purchased on or after January 1, 1979 under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the commissioners reserve valuation methods defined in KRS 304.6-150 and Section 3 of this Act, seven and one-half percent (7-1/2 %) interest, and the 1971 group annuity mortality table, or any modification of this table approved by the commissioner.

The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after July 1, 1976, and prior to January 1, 1979, and of all annuities and pure endowments purchased on or after July 1, 1976, and prior to January 1, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the standard specified in this paragraph, or, at the option of the insurer with respect to any such contracts or purchases, the standard specified in paragraph (a) of this subsection.

Section 2. KRS 304.6-150 is amended to read as follows:

(1) *Except as otherwise provided in Section 3 of this Act, and KRS 304.6-180,* reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) Net level annual premium. A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due. Such net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one (1) year higher than the age at issue of such policy.

(b) Net one-year term premium. A net one-year term premium for such benefits provided for in the first policy year.

(2) Reserves according to the commissioners reserve valuation method for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums,

(b) *Group* annuity and pure endowment contracts *purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by and employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended,*

(c) Disability and accidental death benefits in all policies and contracts, and

(d) All other benefits, except life insurance and endowment benefits in life insurance policies *and benefits provided by all other annuity and pure endowment contracts,* shall be calculated by a method consistent with the provisions of this section, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

SECTION 3. A NEW SECTION OF SUBTITLE 6 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

This section shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended. Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

Section 4. KRS 304.6-160 is amended to read as follows:

In no event shall an insurer's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, which are subject to subsection (2) of KRS 304.6-140, be less than the aggregate reserves calculated in accordance with the *methods* [method] set forth in KRS 304.6-150, *Section 3 of this Act, and KRS 304.6-180,* and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

Section 5. KRS 304.6-170 is amended to read as follows:

Reserves for any category of policies, contracts or benefits as established by the commissioner, which are subject to subsection (2) of KRS 304.6-140, may be calculated, at the option of the insurer, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used *for policies and contracts, other than* *annuity and pure endowment contracts,* shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. [Reserves for participating life insurance policies, which are subject to subsection (2) of KRS 304.6-140, may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent (.5%) the insurer issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve.]

Section 6. KRS 304.6-180 is amended to read as follows:

If *in any contract year* the gross premium charged by any life insurer on any policy or contract, which is subject to subsection (2) of KRS 304.6-140, is less than the *valuation* net premium for the policy or contract *calculated by the* [according to the mortality table, rate of interest and] method used in calculating the reserve thereon, *but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium* [there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium paying period].

Section 7. KRS 304.15-300 is amended to read as follows:

KRS 304.15-310 to 304.15-360, shall be known as the "Standard nonforfeiture law *for life insurance.*"

Section 8. KRS 304.15-340 is amended to read as follows:

(1) How calculated. Except as provided in subsection (4) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairment or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of:

(a) The then present value of the future guaranteed benefits provided for by the policy;

(b) Two per cent (2%) of the amount of insurance, if the insurance be uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy;

(c) Forty per cent (40%) of the adjusted premium for the first policy year; and

(d) Twenty-five per cent (25%) of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

(2) In applying the percentages specified in paragraphs (c) and (d) of subsection (1) of this section, no adjusted premium shall be deemed to exceed 4 per cent of the amount of insurance or uniform amount equivalent thereto. Whenever the plan or term of a policy has been changed, either by request of the insured or automatically in accordance with the provisions of the policy, the date of issue of the changed policy for the purposes of determining a nonforfeiture benefit or cash surrender value shall be the date as of which the age of the insured is determined for the purposes of the changed policy. The date of issue of a policy for the purpose of this section shall be the date as of which the rated age of the insured is determined.

(3) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; Provided That in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten (10), the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten (10) were the amount provided by such policy at age ten (10).

(4) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to:

(a) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by

(b) The adjusted premiums for such term insurance, paragraphs (a) and (b) of this subsection being calculated separately and as specified in subsections (1), (2) and (3) of this section, except that, for the purposes of paragraphs (b), (c), and (d) of subsection (1) of this section, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in paragraph (b) of this subsection shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in paragraph (a) of this subsection.

(5) All adjusted premiums and present values referred to in KRS 304.15-310 to 304.15-360, inclusive, shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1958 standard ordinary mortality table, provided that for any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than *six (6)* [three (3)] years younger than the actual age of the insured, and such calculations for all policies of industrial insurance shall be made on the basis of the commissioners 1961 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest [, not exceeding 4 per cent per year,] specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits *provided that such rate of interest shall not exceed four percent (4%) per year except that a rate of interest not exceeding five and one-half percent (5-1/2%) per year may be used for policies issued on or after the effective date of this Act.* In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit for ordinary insurance, the rates of mortality assumed may not be more than those shown in the commissioners 1958 extended term insurance table and for industrial insurance the rates of mortality may not be more than those shown in the commissioners 1961 industrial extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the insurer and approved by the commissioner.

SB 225, AN ACT relating to business opportunities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Division" means division of securities.

(2) "Person" means natural persons, corporations, trusts, partnerships, incorporated or unincorporated associations, or any other legal entity.

(3) "Offeror" means a person who is engaged in the business of selling business opportunities.

(4) "Consumer/investor" means a person who has purchased or is solicited for the purchase of a business opportunity.

(5) "Business opportunity" means an opportunity to offer, sell or distribute through a distribution device goods or services supplied in whole or in part by the offeror when:

(a) The offeror obtains an initial required consideration of not less than five hundred dollars ($500) from the purchase or lease of the business opportunity or inventory associated therewith; and

(b) The offeror has represented that the consumer/investor will earn, can earn or is likely to earn a gross or net profit in excess of the initial required investment paid by the consumer/investor for the business opportunity; and

(c) The offeror has represented that he has knowledge of the relevant market and that the market demand will enable the consumer/investor to earn a profit from the business opportunity; or the offeror has represented that locations will be provided or assistance will be given to the consumer/investor in finding locations for the use or operation of the business opportunity; or the offeror has represented that there is a guaranteed market or that the offeror will buy back or is likely to buy back any product made, manufactured, produced, fabricated, grown or bred by the consumer/investor using, in whole or in part, the products, supplies, equipment or services which were initially sold or offered for sale to the consumer/investor by the offeror.

(6) "Distribution device" is the method by which the consumer/investor offers, sells or distributes the goods or services supplied to him by the offeror and includes the following:

(a) Vending machines, electric game machines, racks, display cases and other similar devices for selling goods supplied to the consumer/investor by the offeror;

(b) Feed, training manuals and materials for breeding and selling chincillas, earthworms, rabbits, minks, or vicunas;

(c) Ovens or other cooking devices for the sale of "fast food" or "snack food" such as pizza, sandwiches or hot drinks;

(d) Water filtration devices;

(e) Materials for operating a travel agency;

(f) Equipment and materials to set up a minature golf course;

(g) Literature and printed materials for the sale and distribution of "warranty packages" for automobiles or other vehicles;

(h) Market projection formats for the purpose of selling retailers plans or arrangements which are represented to increase the retailer's market share;

(i) Electronic equipment and instructional materials for the purpose of establishing message-recording services;

(j) Equipment and supplies for establishing or renting to third parties cleaning, washing, home and business or insulation services;

(k) Products for repairing, lubricating, oiling, or maintaining automobiles, digital watches or other machinery;

(l) Supplies, instructions, and equipment for home-manufacture or assembly of products to be sold or distributed by the consumer/investor.

(7) "Package franchise" means an agreement wherein:

(a) The franchisee sells goods which must meet the quality standards of the franchisor; and

(b) The franchisee is required by the franchisor to establish a retail business location, not to include the home or residence of the franchisee, to be used primarily for the sale of the goods under the trade name of the franchisor; and

(c) The franchisor exerts or has authority to exert a significant degree of control over the franchisee's business organization, promotional activities, management marketing plan, or business affairs.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The attorney general may by regulation add distribution devices to the enumeration in Section 1(6) of this Act. In making a determination regarding a distribution device, the attorney general shall consider the following:

(a) The amount of initial required consideration to be paid to the offeror by the consumer/investor;

(b) The earnings claims made by the offeror;

(c) The kind of assistance in establishing the business opportunity which the offeror has represented will be provided to the consumer/investor;

(d) The assets which the offeror owns within Kentucky and the length of time the offeror has offered the business opportunity in Kentucky.

(2) After considering the factors enumerated in this section the attorney general may adopt a regulation requiring the offeror of the business opportunity employing the distribution device to comply with all of the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) It is unlawful for any person to engage in the sale of business opportunities unless prior to the offering the offeror has registered with the division and has furnished a bond pursuant to Section 8(2) of this Act and provided the following:

(a) All trade names, assumed names and all trade marks by which the offeror or the prospective consumer/investor of the business opportunity will be doing business.

(b) The names, homes addresses, and home telephone numbers of the persons and company offering the business opportunity, and the company's directors and chief executive officers, and the names, home addresses and home telephone numbers of all representatives selling business opportunities in Kentucky.

(c) A statement as to the length of time the person and company offering the business opportunity has conducted a business of the type being offered both within and without Kentucky.

(d) A statement as to whether the person or company offering the business opportunity or any of its directors or chief executive officers or sales representatives operating in Kentucky has been held liable in a civil action by final judgment for having engaged in unfair, false, misleading, or deceptive practices or has been convicted of or pleaded nolo contendere to a felony involving fraud, embezzlement, fraudulent conversion or misappropriation of property during the most recent seven year period, or has been declared bankrupt in any judicial proceeding during the most recent seven year period.

(e) A statement as to whether the person or the company offering the business opportunity or its officers, directors, or agents making the offering of the business opportunity has been a party to any legal course of action brought by a purchaser of the business opportunity within the last seven year period and, if so, the name and address of such individual who has brought the legal action.

(f) A statement disclosing the names, addresses and telephone numbers of all persons who have been sold a business opportunity by the offeror within the last two year period.

(g) A statement listing the names and addresses of any consumer/investor who has requested within the preceding three years that the offeror return his money.

(2) The offeror shall immediately notify the division of any material change in information contained in the application for registration and shall make appropriate amendment of the disclosure statement.

(3) The division shall furnish the attorney general with a copy of each registration disclosure form within one week after registration is complete.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

An offeror is exempt from the registration provisions of this Act when the offeror:

(1) Has continuously operated a business from a physical location in Kentucky, including a district office, regional office or headquarters, for twelve (12) consecutive months prior to the time of the offer; or

(2) Is offering to sell or selling a package franchise as described in Section 1(7) of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The division, after ascertaining that the applicant has complied with Section 3 of this Act, shall issue a registration number.

(2) It shall be unlawful for the registrant to fail to include the registration number in any advertising.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any offeror to make any oral or written representation, actual or hypothetical, regarding the business opportunity's potential sales, income, gross or net profit unless such sales, income or profits are examples based upon the actual earnings made by existing purchasers of the business opportunity. If such actual or hypothetical earnings examples are in excess of the average net earnings realized by all of the purchasers of the business opportunity, then there must be a full and complete disclosure of the average net earnings actually realized by all of these purchasers.

SECTION 7. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the solicitation of potential consumer/investors the offeror shall furnish and display to the potential consumer/investor a copy of the material required to be furnished the division when registering pursuant to Section 3 of this Act.

(2) When furnishing the information required by Section 7(1) of this Act, the offeror shall furnish the prospective consumer/investor with a notice in at least ten point bold-face type, stating that registration with the division does not directly or indirectly imply approval by the division or the Commonwealth of Kentucky of the business opportunity or any of the activities of representatives selling such business opportunities.

SECTION 8. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Any person who offers a business opportunity and makes representations that are false, misleading or deceptive shall be liable to the purchaser of such business opportunity in an amount equal to the sum of his actual damages or fifteen hundred dollars ($1,500), whichever is greater, as well as the cost of the action together with reasonable attorney's fees, as determined by the court.

(2) All persons registering pursuant to Section 3 of this Act shall furnish a bond of twenty-five thousand dollars ($25,000) with a surety acceptable to the division to insure the veracity of all statements contained in the registration, and any and all persons who are sold a business opportunity in reliance on the registration or any other representations made by the offeror shall be entitled to be compensated from the bond if it is shown that such statements in the registration or representations made during the sales transaction were false, misleading or deceptive.

(3) A person who has furnished a bond described in Section 8(2) of this Act may petition the division for release of the bond by submitting a verified statement that such person has not offered business opportunities in the state for the last five years.

SECTION 9. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Whenever the attorney general has reason to believe that any person is offering business opportunities for sale in violation of this Act, and that proceedings would be in the public interest, he may move in the name of the Commonwealth in a circuit court for a restraining order or temporary or permanent injunction to prohibit such offer. The action may be brought in the circuit court of the county in which such person resides or has his principal place of business or in the circuit court of the county in which the unlawful offer or sale has been or is about to be committed.

SECTION 10. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) The purchaser of a business opportunity has the right to cancel such purchase for any reason at any time prior to midnight of the thirtieth (30th) calendar day after signing a contract for purchasing the business

opportunity. In addition, the purchaser may cancel such purchase at any time for the following violations:

(a) Not providing locations as represented;

(b) Failing to deliver goods or merchandising materials as represented; or

(c) Failing to comply with Section 5(1) of this Act.

(2) Cancellation occurs when the person gives written notice to the seller at the address stated and the notice and statement of the buyer's right to cancel provided for in subsection (1) of this section.

(3) Notice of cancellation, if given by mail, is given when it is deposited in the mail properly addressed and postage prepaid.

(4) Notice of cancellation given by the purchasers need not take a particular form and is sufficient if it indicates by form of written expression the intention of the buyer not to be bound by any contract to purchase the business opportunity.

(5) In the sale of a business opportunity the seller must present to each purchaser at the time such purchaser assumes any financial obligation with respect to the purchase of the business opportunity, a written notice and statement of the buyer's right to cancel which must:

(a) Appear under the conspicuous caption, "BUYER'S RIGHT TO CANCEL WITHIN 30 DAYS," and

(b) Contain the following statement in no smaller type than the body copy portion of the written agreement offer to purchase, or receipt: "THE PURCHASER OF THIS BUSINESS OPPORTUNITY HAS THE RIGHT TO CANCEL THE PURCHASE FOR ANY REASON AT ANY TIME PRIOR TO MIDNIGHT OF THE 30TH CALENDAR DAY AFTER THIS CONTRACT IS ENTERED INTO. YOU MAY CANCEL THE PURCHASE BY NOTIFYING THE SELLER THAT YOU DO NOT WANT THE BUSINESS OPPORTUNITY BY MAILING A NOTICE BEFORE --------- TO THE SELLER AT ---------------.

(6) Until the seller has complied with this section, the buyer may cancel the purchase of a business opportunity by notifying the seller in any manner and by any means of his intention to cancel.

(7) Within fifteen (15) days after the date of notice of cancellation by the purchaser, the seller must tender to the purchaser any payments made by him and terminate all financial obligations created in connection with the purchase of the business opportunity.

(8) Any waiver by the purchaser of a business opportunity of the rights provided in this section is null and void, and will not operate to relieve the seller of any obligation placed upon him by this section.

(9) The purchaser may not cancel a purchase of a business opportunity if the products or inventory furnished to the purchaser cannot be returned to the seller in substantially as good condition as when received by the buyer.

Section 11. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is wilfully using or has wilfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than $100 nor more than $5,000.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of $5,000 which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than $50 and not more than $500 for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9)(a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have wilfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of $100 per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding $1,000 to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who violates Sections 3, 5(2), 6, or 7(1) of this Act shall be guilty of a Class C felony.

(13) Either the attorney general or the appropriate commonwealth attorney shall have authority to prosecute violations of this Act.

The Committee Amendment to **SB 225** is as follows:

Amend printed copy of Senate Bill 225, page 4, line 5, by inserting after the word "goods" the words "or services"; and on page 4, line 10, by inserting after the word "goods" the words "or services"; and page 6, line 20, by deleting the word "course" and inserting in lieu thereof the word "cause"; and on page 7, line 15, by deleting the word "registration".

The Committee on Counties and Special Districts reported **HJR 79** with Committee Amendment attached thereto, **HB 153, HB 372** with Committee Amendment attached thereto, **HB 400, HB 458, HB 474, HB 492, HB 506** with Committee Amendment attached thereto, **HB 514, HB 535** with Committee Amendment attached thereto, **HB 570, HB 602,** and **HB 628** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 79, A JOINT RESOLUTION directing the creation of a local government statute revision commission and making an appropriation therefor.

WHEREAS, recent years have witnessed unprecedented alterations in the constitutional and statutory structure of local government in Kentucky; and

WHEREAS, a growing number of issues are being brought before the General Assembly which involve significant questions of local and state governmental responsibility; and

WHEREAS, special advisory bodies representing legislators, local officials, and lay citizens, closely linked to the interim committee system of the General Assembly, have proved to be effective vehicles for the framing and evaluation of complex intergovernmental issues; and

WHEREAS, the use of special advisory bodies for the study of local and intergovernmental issues can be made more effective, efficient, and economical by their combination into a single entity;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be established a local government statute revision commission to study and review the laws pertaining to units of local government and to carry out a continuing survey of the needs of units of local government from the perspective of statute revision.

Section 2. During the 1978-1980 interim, the local government statute revision commission is directed to give particular consideration to the following:

(1) Continued evaluation and study of the laws pertaining to cities and counties and their implementation and drafting of uniform codes where advisable;

(2) Monitoring the implementation of recent statutory changes affecting cities, counties, and special districts and, if necessary, preparing alternative recommendations for legislative action;

(3) Reviewing and evaluating the potential for jurisdictional conflict between counties and municipalities, including the issue of double taxation, and, if necessary, recommending statutory procedures for resolving possible conflicts;

(4) Reviewing and evaluating comprehensive or special studies which have an impact on local government fiscal or structural capacity, and reporting its recommendations to the appropriate legislative committees and to the Governor;

(5) Designing a comprehensive review of the fiscal condition of local governments in Kentucky to serve as a means of evaluating alternative structuring of state and local financial resources;

(6) Evaluating additional statutory options for the reorganization of local government in metropolitan areas.

Section 3. The Governor, on or before July 1, 1978, shall appoint a local government statute revision commission composed of thirty-two (32) members as follows:

(1) Eight (8) elected county officials, six (6) of whom shall be appointed from a list of at least twelve (12) nominees submitted by the Kentucky Association of Counties;

(2) Eight (8) elected city officials, six (6) of whom shall be appointed from a list of at least twelve (12) nominees submitted by the Kentucky Municipal League;

(3) Eight (8) private citizens;

(4) Two (2) representatives of area development districts appointed from a list of six (6) nominees submitted by the Kentucky Council of Area Development Districts;

(5) Six (6) members of the Kentucky General Assembly including:

(a) The chairmen of the house committees having jurisdiction over counties and cities;

(b) The chairmen of the senate committees having jurisdiction over counties and cities;

(c) One (1) additional member selected by the speaker of the house and one (1) additional member selected by the president pro tempore of the senate.

Section 4. The chairman and vice chairman of the commission shall be designated by the Governor from among the members and shall serve in these respective capacities at his pleasure.

Section 5. The members of the commission shall serve for a period of two (2) years. Vacancies in the commission shall be filled by appointment in the same manner as the original appointment.

Section 6. The members of the commission shall serve without pay but shall receive their reasonable and necessary expenses in connection with the performance of their duties to be paid out of the sum appropriated to the commission.

Section 7. The full commission shall meet twice annually and at such other times as it deems necessary. The commission may hold public hearings from time to time on matters within its purview.

Section 8. Whenever appropriate the commission shall organize itself into task groups related to the subject matter under consideration. To the maximum extent possible these task groups shall meet jointly with the appropriate interim committees or subcommittees of the General Assembly during the interim period.

Section 9. The Commission shall report periodically to the Legislative Research Commission and the Governor and a comprehensive report with recommendations for statute revision shall be submitted to the General Assembly and the Governor by August 1 of the year preceding a regular session of the General Assembly.

Section 10. The commission shall be attached to the department for local government for administrative purposes. The commission in consultation with the commissioner of the department for local government shall employ an executive director. The director, with the approval of the commissioner of the department for local government, may employ such persons or contract for such services as may be necessary for the effective performance of the commission's work. The director may accept the voluntary services of interested citizens who shall serve without pay, but these citizens shall receive their reasonable and necessary expenses to be paid out of the sum appropriated to the commission.

Section 11. To carry out the purposes of this Resolution, there is appropriated to the local government statute revision commission out of the general fund in the state treasury the sum of two hundred thousand dollars ($200,000) for the fiscal year 1978-1979 and the sum of two hundred thousand dollars ($200,000) for the fiscal year 1979-80.

The Committee Amendment to **HJR 79** is as follows:

Amend printed copy of House Resolution 79, page 3, line 5, after “Section 3.” by inserting the following:

“The local government statute revision commission is directed to conduct a study of methods of providing in-service training programs for newly-chosen and incumbent, elected and appointed, city and county officials. The study shall include:

(1) An analysis of the methods employed by other states to provide such training programs and an evaluation of the suitability of such methods for Kentucky;

(2) A survey of the training resources currently or potentially available within Kentucky, including determination of the facilities needed and available for training; and the cost of acquiring or utilizing suitable facilities; and

(3) An evaluation of alternative organizational locations for an in-service training program, whether within state government or through non-governmental entities.“;

and on page 3, line 5, before the words “The Governor” insert the following: “Section 4.“; and on page 4, line 3, delete “Section 4.” and insert therefor: “Section 5.“;

and on page 4, line 3, after the first use of the word “chairman” insert the following: “of the commission shall be the chairman of the interim joint committee having jurisdiction over counties, and the vice chairman shall be the chairman of the interim joint committee having jurisdiction over cities.“; and on page 4, line 3, delete “and vice chairman of the“; and on page 4, lines 4, 5, and 6, delete all of lines 4, 5, and 6;

and on page 4, line 7, delete “Section 5.” and insert therefor: “Section 6.“; on page 4, line 11, delete “Section 6.” and insert therefor: “Section 7.“; on page 4, line 16, delete “Section 7.” and insert therefor: “Section 8.“; on page 4, line 20, delete “Section 8.” and insert therefor: “Section 9.“; on page 4, line 23, delete: “To the maximum“; on page 4, line 23, delete: “extent possible“; on page 4, line 26, delete “Section 9.” and insert therefor: “Section 10.“; on page 5, line 6, delete “Section 10.” and insert therefor: “Section 11.“; and on page 5, line 19, delete “Section 11.” and insert therefor: “Section 12.“.

HB 153, AN ACT relating to taxing districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.050 is amended to read as follows:

Proceedings to incorporate a city shall be commenced by a petition signed by at least two-thirds (2/3) of the voters living within the boundary of the proposed city, or, in case of an incorporated taxing district having by charter a grant of municipal powers and exercising them, by its petition accompanied by request for such action signed by a majority of the voters resident in the district. The petition must be filed in the circuit clerk's office of the county in which the greater part of the territory is located. [The petition shall be docketed for hearing not less than twenty (20) days from the date of filing the petition.] Notice of the filing of the petition and of its object shall be given by publication pursuant to KRS chapter 424 *and by first class mail to all property owners within the boundary of the proposed city. The petition shall be docketed for hearing not less than thirty (30) days from the publication and mailing.* The petition shall set out the metes and bounds of the proposed city, the number of the voters in it and such other facts as may be thought proper and the date of the hearing on the petition.

Section 2. KRS 81.100 is amended to read as follows:

The boundaries of cities of the first class shall remain as established by law until changed as provided in KRS 81.100 to 81.130. Whenever a city of the first class desires to annex any unincorporated territory or to reduce the boundaries of the city, the city legislative body may enact an ordinance, defining accurately the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published pursuant to KRS chapter 424 *and all property owners within the proposed territory shall be notified of the proposed change by first class mail.* In not less than thirty (30) days after the enactment of the ordinance, if the publication has been made and no petition has been filed in the circuit court as provided in KRS 81.110, the city legislative body may enact another ordinance annexing to the city or striking from the city the territory described in the ordinance. Upon the enactment of this ordinance, the territory shall become part of the city, or be stricken from the city.

Section 3. KRS 81.210 is amended to read as follows:

Whenever a fourth-class city desires to annex any territory or to reduce the boundaries of the city, the city legislative body shall, by ordinance, accurately define the boundary of the territory proposed to be annexed or stricken off. The ordinance shall be published pursuant to KRS chapter 424 *and all property owners within the proposed territory shall be notified of the proposed change by first class mail.* Within thirty (30) days after the adoption, publication, *notification* and advertisement of the ordinance, a petition shall be filed in the circuit court of the county within which the city is situated, in the name and on behalf of the city, setting forth the passage, publication and advertisement of the ordinance and its object and purposes, together with an accurate description by metes and bounds of the territory proposed to be annexed or stricken from the city, and praying for a judgment to annex the territory or strike it from the city. Notice of the filing of the petition shall be given in the same manner as notice of passage of the ordinance. The circuit court shall not have jurisdiction of the proceedings unless the required publication or advertisement of the ordinance contains notice of the proposed proceedings in the court. If no defense is made within thirty (30) days after the filing of the petition and notice and the court makes no order for granting future time for making defense, the court shall render judgment annexing or striking off the proposed territory.

Section 4. KRS 74.010 is amended to read as follows:

(1) Subject to the requirements herein specified any county court, upon petition of twenty-five (25) resident freeholders of the proposed district, may establish a water district and appoint water commissioners for the purpose of furnishing a water supply to the citizens of the county. The petition shall describe the territory intended to be included in the district, and shall set out the reasons a water district is needed.

(2) When the petition is filed the court shall give notice of the filing by publication pursuant to KRS chapter 424 *and by first class mail to all property owners in the proposed district.* Within thirty (30) days after the publication *and mailing,* any resident of the proposed district may file objections, and the court shall set the case for hearing within *thirty (30)* [ten (10)] days. If the court finds that the establishment of such district is reasonably necessary for the public health, convenience, fire protection, and comfort of the residents, it shall make an order establishing the district, and designating it by name or number. A fee of twenty dollars ($20.00) shall be allowed the court for hearing the petition and entering its order.

(3) The court may in this order strike off any part of the territory that the testimony shows will not be benefited by the creation of the district. If the court does not find that the district is necessary, it shall dismiss the petition. Either party may thereupon appeal to the circuit court for a retrial, and from the circuit court to the Court of Appeals as provided by law.

Section 5. KRS 74.075 is amended to read as follows:

The board of commissioners of any legally existing water district created under the authority of KRS chapter 74 may have the power to create a fire protection district where no fire protection district exists by filing a petition in the county clerk's office of the county in which the greater part of the territory is located. The petition shall conform with KRS 75.010 except as conflict exists with KRS 74.075 to 74.077; and the petition shall be *processed and* ruled on as provided for in KRS 75.010.

Section 6. KRS 75.010 is amended to read as follows:

(1) A petition for the establishment of a fire protection district or a volunteer fire department district signed by at least fifty-one per cent (51%) of the voters, as determined by the registration books covering the territory, and living within the boundary of the proposed fire protection district or volunteer fire department district may be filed in the county court clerk's office of the county in which the greater part of the territory is located. The petition shall set out the metes and bounds of the proposed fire protection district or volunteer fire department district, the number of voters thereof, and other facts thought proper. Notice of the filing of the petition, the object thereof, and the date set for a hearing thereon shall be given by publication pursuant to KRS chapter 424, *by first class mail to all property owners in the proposed district,* and by notices posted for at least *thirty (30)* [ten (10)] days prior to the hearing, one (1) at the courthouse door, and three (3) others at public places within the bounds of the proposed fire protection district or volunteer fire department district. On the day provided for in the notice, the court shall, if the proper notice has been given and publication made, and no written objection or remonstrance is interposed, enter an order establishing a fire protection district or a volunteer fire department district in accordance with the prayer of the petition, naming it, and describing the boundary thereof by metes and bounds. Objection or remonstrance may be made to the petition by any inhabitant of the proposed fire protection district or a volunteer fire department district, or any person owning property therein, and if objection or remonstrance is made, the court shall hear and determine the same, and enter an order establishing, or refusing to establish the fire protection district or volunteer fire department district as may seem proper. Any aggrieved person may bring an action in circuit court to contest the decision of the county court.

(2) In no event shall any fire protection district or any volunteer fire department district include within its metes and bounds any territory at that time or thereafter included in any city of this Commonwealth which maintains a "regular fire department," and which city has paid its proportionate share of the indebtedness incurred while such territory was a part of that district.

Section 7. KRS 75.020 is amended to read as follows:

(1) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department districts shall file a petition in the county court clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication, *mailing* and posting in the same manner as provided for in KRS 75.010. On the day fixed in the notice, the court shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one per cent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance be filed said clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the court shall hear and determine the same. If upon such hearing, the court finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, it shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in circuit court to contest the decision of the county court.

(2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents balance owing on purchase price of fire fighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the court under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

(3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, may assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.

Section 8. KRS 75.025 is amended to read as follows:

(1) The fiscal court of any county, upon petition of seventy-five (75) freeholders of the proposed district, may establish a county fire protection district within the county for the purpose of protecting the property and citizens of the county who reside outside of any municipality wherein a fire department is maintained. The petition shall describe the territory intended to be included in the district, and shall set out the reasons a county fire protection district is needed.

(2) When the petition is filed the court shall give notice of the filing by publication as provided in KRS chapter 424 *and by first class mail to all property owners in the proposed district*. Within thirty (30) days after the publication *and mailing* of notice, any resident of the proposed district may file objections, and the court shall set the case for hearing within *thirty (30)* [ten (10)] days. If the court finds that the establishment of such district is reasonably necessary for the public health, convenience, fire protection and comfort of the residents, it shall make an order establishing the district, and designating it by name or number.

(3) If the court does not find that the district is necessary, it shall dismiss the petition. Either party may thereupon appeal to the circuit court for a retrial, and from the circuit court to the Court of Appeals as provided by law.

(4) The county fire protection district shall possess all the rights and authority provided by KRS chapter 75.

Section 9. KRS 76.175 is amended to read as follows:

The board of the district may annex any unincorporated area in the county, or any area of the county containing all or any part of a city of the fifth or sixth class, whether contiguous or noncontiguous, to the district by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS chapter 424. *The board shall give notice of the order by first class mail to all property owners in the area to be annexed.* The notice so published *and mailed* shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the area or areas to be annexed and shall cause the same to be published pursuant to KRS chapter 424. Within sixty (60) days after final publication of an order made pursuant to this section, any freeholder of land within the area or areas proposed to be annexed may appeal such final order to the circuit court for the county in which the district is located. All matters appealed shall be tried as an equitable action. Decisions of the circuit court may be appealed to the Court of Appeals.

Section 10. KRS 76.241 is amended to read as follows:

(1) The district may establish a construction subdistrict when twenty-five per cent (25%) or more of the freeholders of land sought to be included in the construction subdistrict file their petition with the district. The petition shall describe the territory intended to be included in the construction subdistrict and the sewer and drainage conditions and facilities existing in this territory. The territory of the construction subdistrict may be noncontiguous to other territory of the district. Tenants in common, joint tenants with or without right of survivorship, and tenants by the entireties shall be deemed one (1) freeholder or property owner.

(2) When the petition is filed with the district, said district shall give notice of the filing by publication pursuant to KRS chapter 424 *and by first class mail to all property owners in the proposed subdistrict.* Within thirty (30) days after the publication *and mailing,* any resident or freeholder of the proposed construction subdistrict may file objections and the district shall set the case for hearing within thirty (30) days. If the district finds that the establishment of the construction subdistrict is reasonably necessary for the public health, convenience and comfort of the residents of the subdistrict, it shall make an order establishing the construction subdistrict and designating it by name and number.

(3) If the district finds that the construction subdistrict is not necessary, it may dismiss the petition. If the district finds that any part of the proposed territory will not be benefited, it may strike such part. If the district strikes a certain portion of the area, the signature of the freeholders of that portion shall not be counted in determining whether the necessary twenty-five per cent (25%) have petitioned for the creation of the subdistrict. A copy of the order of the board establishing a construction subdistrict shall be published in accordance with KRS chapter 424.

(4) An order of the district rejecting or dismissing the petition shall be deemed a final order of the district appealable to the circuit court under the procedure set forth in KRS 76.247 within sixty (60) days. Appeals to the circuit court from the order establishing a construction subdistrict or striking or refusing to strike any territory from a construction subdistrict shall be made only as provided in KRS 76.247 and only after following the procedures required in KRS 76.247.

(5) In the event the owner or owners of all property or properties proposed to be included within the territorial boundaries of a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the creation of a construction subdistrict, and the construction and installation therein of sewer facilities as provided in KRS 76.241 to 76.273, inclusive, and shall unqualifiedly waive all formalities and substantive rights contained in:

(a) KRS 76.241, concerning the affording of notice as to creation of a construction subdistrict, the time for filing objections to the creation thereof, and the time for appealing from an order establishing a construction subdistrict;

(b) KRS 76.243, concerning the affording of notice as to proposed assessments; and

(c) KRS 76.246, concerning the holding of a public hearing, and permitting litigation following the making and publication of an order concerning the construction plan in general.

(6) The district may thereupon make and publish an order creating such construction subdistrict, and its order as provided in KRS 76.246 (2), without further action being required, and may thereupon proceed to carry out said plan for improvements without further recourse to said identified statutory provisions and formalities; but in all such instances the written request or requests of the owner or owners of all properties proposed to be included within the territorial boundaries of such construction subdistrict shall be in recordable form and shall be recorded in the office of the clerk of the county court of the county wherein the properties are situated, and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages. Each resolution of the district, by which an improvement is undertaken according to this section, shall contain a recitation of the receiving of written requests and waivers from the owners of all properties included within the territorial boundaries of the construction subdistrict. In the event the district proceeds pursuant to KRS chapter 107, as authorized by KRS 76.251, the lien for which provision is made in KRS 107.160 shall attach upon publication of the resolution (equivalent to the "third ordinance") which authorizes issuance of improvement assessment bonds.

Section 11. KRS 76.268 is amended to read as follows:

Annexation to subdistricts may be accomplished by any of the following procedures, as the board may elect:

(1)(a) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may, if it deems it advisable, use the authority and procedures granted to sanitation districts by KRS 220.535 to 220.537 to annex territory to a subdistrict, the words "board of directors" being read as "metropolitan sewer district board."

(b) Language in KRS 220.535 limiting the powers of annexation to a sanitation district in a county not containing a city of the first class, shall not be applicable to a metropolitan sewer district which might use this method of annexation to a construction subdistrict even if it is located in a county containing a city of the first class, and the director of sanitary engineering of the department of health shall function in regard to annexation by it in the same manner and under the same procedures, as set out in KRS 220.535 to 220.537, as he would in his capacity as commissioner of sanitation districts for any sanitation district.

(2) After the creation of a construction subdistrict under the provisions of KRS 76.241 to 76.246, the board may annex any area, contiguous or noncontiguous, subject to the limitations of KRS 76.242, to the construction subdistrict by making a preliminary order describing the area to be annexed and causing said order to be published pursuant to KRS chapter 424. *The board shall give notice of the order by first class mail to all property owners in the area to be annexed.* The notice so published *and mailed* shall state that objections in writing to the proposed annexation may be filed with the district within thirty (30) days of the date of said notice. The district shall examine and hear all such complaints. It may modify or amend the areas proposed to be annexed; and it shall make a final order, within sixty (60) days of the date of publication of said notice, describing the areas to be annexed and shall cause the same to be published, pursuant to KRS chapter 424. A freeholder of land within the area proposed to be annexed may appeal such final order in the manner described in KRS 76.247. In referring to KRS 76.247, this section is not intended to provide for de novo trial.

(3) In the event the owner or owners of all the property or properties proposed to be annexed to a construction subdistrict shall tender to the district their written request or requests that the district proceed immediately with the annexation of said property or properties, and shall unqualifiedly waive all formalities and substantive rights contained in subsection (2) of this section, the district may thereupon make and publish a final order annexing said property or properties to the construction subdistrict. Said order shall contain a recitation of the receiving of waivers from the owners of all properties to be annexed thereunder. Provided, however, That in all such instances the written request or requests of the owner or owners of all properties proposed to be annexed to a construction subdistrict shall be in recordable form and shall be recorded in the office of the clerk of the county court of the county wherein the property is located; and said clerk is authorized to record such instruments as in the case of mortgages and may charge and receive fees therefor as in the case of mortgages.

(4) The provisions of subsections (1), (2) and (3) of this section shall not repeal or reduce any existing rights or duties of metropolitan sewer districts, but shall constitute merely a procedure for annexation to construction subdistricts by a metropolitan sewer district.

Section 12. KRS 76.278 is amended to read as follows:

(1) In order to establish a comprehensive sewage and sewage treatment system, or storm water and surface drainage system, or both within the sanitation tax district, the sanitation tax district through its board may levy an ad valorem tax upon the real property in the district, not exceeding limits designated by the constitution of the commonwealth. Provided, however, That notice stating the amount of the proposed tax and the area to be affected be published in a newspaper of bona fide circulation as provided in KRS 424.130 *and that the same notice shall be given by first class mail to all property owners in the area to be taxed.* Provided, further, That no resolution of the board imposing an ad valorem tax shall go into effect until the expiration of thirty (30) days after the first publication *and mailing* of the notice. If during the thirty (30) days next following the first notice of said resolution, a petition signed by a number of constitutionally qualified voters equal to fifteen per cent (15%) of the votes cast within the area affected at the last preceding general election, stating the residence of each signer, and verified as to signatures and residence by the affidavits of one or more persons is presented to the county court protesting against passage of such resolution or if the fiscal court passes a resolution suspending the tax, the resolution shall be suspended from going into effect. The county judge/executive shall notify the board of the sanitation tax district of the receipt of the petition or of the suspension of the resolution or both. If the resolution is not repealed by the board, the board shall submit to the voters of the area to be taxed, at a regularly scheduled election or at an election held for that purpose, the question as to whether the tax shall be levied. The question shall be so framed that the voter may by his vote answer "for" or "against." If a majority of the votes cast upon the question oppose its passage, the resolution shall not go into effect. If a majority of the votes cast upon the question favor its passage, the resolution shall go into effect as of January 1 of the year succeeding the year in which the election is held.

(2) When such tax levy has been fully approved, the property valuation administrator, with the cooperation of the board shall note on the tax rolls the taxpayers and valuation of the property subject to such tax. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the department of revenue.

(3) Such ad valorem taxes shall be collected by the sheriff in accordance with the general law and accounted for to the board. The sheriff shall be entitled to a fee of one per cent (1%) of the amount collected.

Section 13. KRS 76.305 is amended to read as follows:

(1) When the petition is filed the county clerk shall give notice of the filing by publication pursuant to KRS chapter 424, *by first class mail to all property owners in the proposed district,* and by posting notices in three (3) public places within the proposed district. Within thirty (30) days after the publication *and mailing,* any freeholder of the proposed district may file objections, and the court shall set the case for hearing at the first rule day after expiration of said thirty (30) days. If the court finds that the establishment of such district is reasonably necessary for the public health, convenience and comfort of the residents of the district, it shall make an order establishing the district and designating it by name and number.

(2) If the court finds that the district is not necessary, it may dismiss the petition. If the court finds that any part of the territory will not be benefited, it may strike such part.

(3) Any party may appeal to the circuit court from the order establishing a district or dismissing the petition or striking or refusing to strike any territory from the district. From a decision of the circuit court any party may appeal to the Court of Appeals.

Section 14. KRS 220.090 is amended to read as follows:

When sixty per cent (60%) of those qualified within the boundary fixed by the commissioner are found to have petitioned for the establishment of a sanitation district, and the commissioner has established the boundaries thereof, the commissioner shall give notice of the application for the creation of the district, by publication pursuant to KRS chapter 424 *and by first class mail to all property owners in the proposed district.*

Section 15. KRS 220.536 is amended to read as follows:

(1) When a petition for annexation of territory to a district is filed with the commissioner, he shall investigate at once the boundary of the territory proposed to be annexed, and may, at the cost of the district, cause to be made surveys necessary to establish with reasonable accuracy a boundary that will, in his judgment, accomplish the purpose sought by annexation of the territory in a practicable and workable manner, and that will be sufficiently comprehensive to avoid confusion or interference with any other similar district then existing or that may be created. The boundary established by the commissioner need not follow the boundary proposed by the district.

(2) Should it be found desirable to include in the territory to be annexed by a district all or a portion of a city of the second, third, fourth, fifth or sixth class, the governing body of such city shall determine by ordinance whether the city or portion thereof shall be included in the district, or whether the city shall bind itself to pay the charges for the services of the district furnished in such area.

(3) When the boundaries of the territory proposed to be annexed have been fixed by the commissioner as prescribed in subsection (1) of this section, he shall give notice of the application for annexation of the territory by publication pursuant to KRS chapter 424 *and by first class mail to all property owners in the proposed district.*

Section 16. KRS 220.553 is amended to read as follows:

(1) The district may establish a construction subdistrict when twenty-five per cent (25%) or more of the freeholders of land sought to be included in the construction subdistrict file their petition with the district. The petition shall describe the territory intended to be included in the construction subdistrict and the sewer and drainage conditions and facilities existing in this territory. The territory of the construction subdistrict may be noncontiguous to other territory of the district. Tenants in common, joint tenants with or without right of survivorship, and tenants by the entireties shall be deemed one (1) freeholder or property owner.

(2) When the petition is filed with the district, said district shall give notice of the filing by publication pursuant to KRS chapter 424 *and by first class mail to all property owners in the proposed subdistrict.* Within thirty (30) days after the publication *and mailing,* any resident or freeholder of the proposed construction subdistrict may file objections and the district shall set the case for hearing within thirty (30) days. If the district finds that the establishment of the construction subdistrict is reasonably necessary for the public health, convenience and comfort of the residents of the subdistrict, it shall make an order establishing the construction subdistrict, and designating it by name and number.

(3) If the district finds that the construction subdistrict is not necessary, it may dismiss the petition. If the district finds that any part of the proposed territory will not be benefited, it may strike such part. If the district strikes a certain portion of the area, the signature of the freeholders of that portion shall not be

counted in determining whether the necessary twenty-five per cent (25%) have petitioned for the creation of the subdistrict. A copy of the order of the board establishing a construction subdistrict shall be published in accordance with KRS chapter 424.

(4) An order of the district rejecting or dismissing the petition shall be deemed a final order of the district appealable to the circuit court under the procedure set forth in KRS 220.563 within sixty (60) days. Appeals to the circuit court from the order establishing a construction subdistrict or striking or refusing to strike any territory from a construction subdistrict shall be made only as provided in KRS 220.563, and only after following the procedures required in KRS 220.563.

SECTION 17. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

Prior to the establishment of any garbage and refuse disposal district as provided in KRS 109.030, notice of the proposed district shall be given by publication pursuant to KRS Chapter 424 and by first class mail to all property owners in the proposed district. Within thirty (30) days after the publication and mailing, any resident of the proposed district may file objections with the appropriate governing body identified in KRS 109.030, and that body shall set the case for hearing within thirty (30) days.

HB 372, AN ACT relating to fire protection districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.260 is amended to read as follows:

(1) The board may fix the respective salaries of its members on a per meeting basis not to exceed *fifty dollars ($50.00)* [three dollars ($3.00)] per meeting and not to exceed one (1) meeting per month.

(2) The board shall meet at least once a month at a time and place designated by the board and all meetings, except executive meetings, shall be open to the public.

The Committee Amendment to **HB 372** is as follows:

Amend printed copy of House Bill 372, page 1, line 4, by deleting "*fifty*" and inserting therefor: "*twenty-five*"; and on page 1, line 5, deleting "*dollars ($50.00)*" and inserting therefor: "*dollars ($25.00)*".

HB 400, AN ACT relating to the county employes' retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) The board shall enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to members retired from service for reasons of disability pursuant to KRS 61.592, and to the spouses and minor children of said retired members. Coverage shall also be extended to spouses and to minor children of members in active contributing status who die prior to retirement if such members were fifty-five (55) years of age or older and eligible for service retirement at the time of death.

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs.

(3) The board may pay premiums for insurance coverage from the Kentucky retirement systems' insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board may elect to provide such insurance protection on a "self-insurance" basis.

(4) Contracts negotiated may stipulate that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board may adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

HB 458, AN ACT relating to the compensation of county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk, sheriff and jailer of each county having a population of 75,000 or over shall receive an annual salary of $14,300.

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the *circuit* [county] court, and signed by the *chief* judge thereof. In all other counties with a population of 75,000 or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the executive department for finance and administration.

(3) Each officer shall, on the first day of each month, send to the executive department for finance and administration a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the executive department for finance and administration the amount so collected or received. The executive department for finance and administration may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses, shall be paid semimonthly by the state treasurer upon the warrant of the executive department for finance and administration made payable to the officer. If seventy-five per cent (75%) of the amount paid into the state treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the executive department for finance and administration to any officer for salaries and expenses exceed seventy-five per cent (75%) of the amount paid to the executive department for finance and administration by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the *circuit* [county] court and signed by the *chief* judge thereof. In all other counties with a population of 75,000 or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the executive department for finance and administration.

HB 474, AN ACT relating to the office of county clerk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 62 IS CREATED TO READ AS FOLLOWS:

The office of county clerk, rather than the individual holder of the office, shall be liable for the acts or omissions of deputy clerks. When a deputy clerk omits to act or acts in such a way as to render the clerk responsible, and the clerk discharges such responsibility, the deputy clerk shall be liable to the clerk for all damages and costs which are caused by the deputy's act or omission.

HB 492, AN ACT relating to the county employes retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

Work performed by a member of the county employes retirement system while in a county police department which was not then covered by a pension system created pursuant to KRS 70.580 through 70.598, shall be creditable as prior service in the county employes retirement system if the member has not received prior service credit from any other public retirement system for such period of work.

Section 2. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiner or examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county.

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958 *or as provided for in Section 1 of this Act*, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five-year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five-year period is less than forty-eight (48), one or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: 1,950 hours, 260 days, 52 weeks, 12 months, one year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty; and

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973.

HB 506, AN ACT relating to area development districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.070 is amended to read as follows:

(1) The board of directors in each district may appoint an executive director and fix his salary, *which shall not exceed the maximum amount set by the governor for the head of a statutory administrative department as provided in KRS 64.640.* The executive director shall perform, in the name of the board, such functions and duties and may exercise such authority of the board as the board may delegate to him.

(2) The board of directors in each district may elect from its membership an executive committee and delegate to the committee any of the following duties:

(a) To employ such staff members as may be required for the operations of the district;

(b) To manage the financial assets and obligations of the district;

(c) To guide the activities of the district between meetings of the board; and

(d) To perform such other duties as the board might delegate to it.

The Committee Amendment to **HB 506** is as follows:

Amend printed copy of **HB 506,** page 1, line 6, after "*for the*" by deleting the remainder of the line; on line 7 delete "*provided in KRS 64.640*"; and insert on line 6 after "*for the*" the following" "*Commissioner of the Department of Local Government*".

HB 514, AN ACT relating to unincorporated urban places.

WHEREAS, the Fairdale area located in southern Jefferson county, and described by metes and bounds herein, is a compact unincorporated place with a population in excess of 25,000; and

WHEREAS, the citizens of Fairdale have designated the American Holly as their official tree; and

WHEREAS, the citizens of Fairdale have designated the Mocking Bird as their official bird; and

WHEREAS, the citizens of Fairdale have designated "WE SHALL DEFEND" as their official motto; and

WHEREAS, the citizens of Fairdale have designated their official flag as follows:

(a) A flag of five colors;

(b) A field of red to symbolize fervency and the general term of rednecks by which the residents are proudly known;

(c) A green laurel wreath in the top of the canton to symbolize immortality and the residents' determination to win;

(d) Two St. Andrew crossed golden swords in the center of the canton to symbolize constancy and the residents' pride in the high hills of the area. (The claymore swords are the fighting weapons of the highlanders, and St. Andrew is known as the patron saint of the highlanders. The highest elevation in Jefferson County is located in Fairdale at 902 feet above sea level);

(e) A blue collar in the bottom of the canton to symbolize fidelity and because most of the area's residents are blue collar workers;

(f) A white inscription on the collar to symbolize purity and because over ninety-five percent (95%) of the area residents are God fearing far right wing conservaties, with the inscription to read, "IN GOD WE TRUST"; and

WHEREAS, the Fairdale area qualifies as an "other municipality" within the sense of Sections 157, 158, 159, 161, 162 and 164 of the Kentucky Constitution which refers to "cities, towns and other municipalities"; and

WHEREAS, the Fairdale area is not an "incorporated district" as that term is used in Section 179 of the Kentucky Constitution;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

The Fairdale area of Jefferson County is an "unincorporated urban place" within the meaning of KRS 177.366, 177.367 and 177.368. The metes and bounds of the Fairdale area are as follows: Beginning at a point approximately 1,000 feet West of Smith Road on the Jefferson— Bullitt County line; running thence northwardly along a line behind improvements facing Smith road, Top Hill Road, and Jefferson Hill Road 12,000 feet more or less to Lonesome Hollow Road; thence northwestwardly with Lonesome Hollow road 6,000 feet more or less to Blevins Gap Road; thence northeastwardly along Blevins Gap road 2,000 feet more or less to Greyling Drive; thence northeastwardly along Greyling Drive 5,500 feet more or less to Manslick Road; thence northwardly along Manslick Road 2,000 feet more or less to the Louisville, Henderson & Saint Louis Railroad; thence northeastwardly along said railroad 16,250 feet more or less to the Louisville & Nashville Railroad; thence southwardly along the Louisville & Nashville Railroad 4,000 feet more or less to the Outer Loop; thence eastwardly along the Outer Loop 10,250 feet more or less to Interstate 65; thence southwardly along Interstate 65 18,500 feet more or less to the Bullitt— Jefferson County line; thence westwardly with said county line 28,000 feet more or less to the beginning.

HB 535, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employe, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) *"Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, soybeans, tobacco, timber, orchard, fruits, vegetables, flowers or ornamental plants, where such activities produced an average gross income of at least $500 per year during the two (2) years immediately preceding or there is evidence of anticipated yearly gross income of this amount.*

(3) "Board" means the board of adjustments unless the context indicates otherwise;

(4) [(3)] "Citizen member" means any member of the planning commission or board of adjustments who is not an elected or appointed official or employe of the city or county;

(5) [(4)] "Commission" means planning commission;

(6) [(5)] "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) [(6)] "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustments, consisting of two (2) parts;

(a) A statement of the factual determination by the board of adjustments which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted.

(8) [(7)] "Dimensional variance" means a departure from the terms of the zoning regulation pertaining to height or width of structures and size of yards and open spaces, where such departure will not be contrary to the public interest, and where, owing to conditions peculiar to the property because of its size, shape or topography, and not as a result of the actions of the applicant, the literal enforcement of the zoning regulations would result in unnecessary and undue hardship;

(9) [(8)] "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) [(9)] "Housing or building regulation" means any regulation incorporating any housing, building or safety code, including, but not limited to such codes as plumbing, electrical, elevator, boiler, fire safety, and minimum housing, or any other regulation;

(11) [(10)] "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) [(11)] "Mayor" means the chief elected official of the city whether the official designation of his office is mayor, chairman of the board of trustees, or otherwise;

(13) [(12)] "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) [(13)] "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) [(14)] "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) [(15)] "Plat" means the map of a subdivision;

(17) [(16)] "Political subdivision" means any city or county;

(18) [(17)] "Regulation" means any enactment by the legislative body of a city or county whether it is an ordinance, resolution, or an order and shall include regulations for the subdivision of land adopted by the planning commission;

(19) [(18)] "Several" means two or more;

(20) [(19)] "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(21) [(20)] "Street" means any vehicular way;

(22) [(21)] "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(23) [(22)] "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban county government where a subdivision means the division of a parcel of land into two or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land*;* [:] providing that a division of land *in agricultural use* [for agricultural purposes] into lots *or* [of] parcels of five (5) acres [,] or more and not involving a new street shall not be deemed a subdivision. The term includes "re-subdivision" and, when appropriate to the context, shall relate to the process of subdivision or to the land subdivided. [;] Any division or redivision of land into parcels of less than one acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section.

(24) [(23)] "Unit" means planning unit.

The Committee Amendment to **HB 535** is as follows:

Amend printed copy of House Bill 535, page 5, line 18, by deleting "*in*" and substitute therefor: "*for*".

HB 570, AN ACT relating to county police force merit boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.410 is amended to read as follows:

(1) The county judge/executive, subject to the approval of the fiscal court of the county, shall appoint four (4) persons, who shall constitute the county police force merit board of such county, who shall serve without compensation, and the county judge/executive shall be a member ex officio of the said board, but shall only vote in case of a tie vote on any matter before the board for determination. Each board appointee shall be at least thirty (30) years of age, a resident of the county affected, and not related by either blood or marriage to either the county judge/executive or any member of the fiscal court of the said county. The first members of any said board shall be appointed within the thirty-day period following the effective date of an order duly made and entered by a fiscal court creating a county police force merit system and merit board, and one (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that appointments to fill vacancies within the respective terms shall be made only for the unexpired period of the respective terms. Any board member may be removed by resolution of the fiscal court of the county for neglect, incapacity, misfeasance or malfeasance on the part of said board members. No appointed board member shall hold any other public office elective or appointive during his term as a member of the board, and shall not receive any money, gift or consideration of any type from any person directly or indirectly for or on account of any recommendation, proposal or suggestion bearing upon the business of the

board or the county police force. Not more than two (2) members shall be adherents of the same political party.

(2) Each appointee, before entering upon the discharge of his duties, shall qualify by subscribing, taking and filing an oath of office as required by law.

(3) [In counties containing a city of the first class] The members of the county police department shall, [on an annual basis,] elect *for a two (2) year term* two (2) patrolmen of the county police department with a minimum of five (5) years service or more who shall serve as members of the county police force merit board for the purpose of deciding discipline cases only *and who may vote in such cases. These members shall be elected during the month of July, 1978. In case of a vacancy, a new election shall be held within sixty (60) days of the date when the vacancy occurs and the person elected shall fill the remainder of the unexpired term.*

HB 602, AN ACT relating to recreation systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.010 is amended to read as follows:

(1) The acquisition, development, maintenance and operation of parks, playgrounds and recreation centers, *which may include but is not limited to zoos and museums,* is a proper municipal purpose for all cities and counties. The legislative body of any city or the fiscal court of any county may dedicate for use as parks, playgrounds and recreation centers any lands or buildings owned or leased by the city or county and not devoted to an inconsistent public use and may acquire real property for such purpose by purchases, lease, condemnation or otherwise, at any place reasonably accessible to the inhabitants of the city or county and either within or without the boundaries of the city or the county.

(2) Any two (2) or more cities, or any city and county, may jointly establish, maintain and conduct a park and recreation system. Any school district may join with any city or county in providing and conducting public parks, playgrounds and recreation centers.

Section 2. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain and conduct a park and recreation system *or systems, which may include but shall not be limited to the establishment, maintenance and conduct of zoos and museums,* the legislative bodies of such counties, cities or other districts involved may by ordinance, order or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050.

(2) Such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, shall elect from its membership a chairman, secretary and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his duties sufficient in amount to cover funds coming into his hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

HB 628, AN ACT relating to joint recreational, tourist and convention commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83.347 is amended to read as follows:

(1) The commission established pursuant to subsection (3) of KRS 83.340 shall be composed of five (5) members from each county to be appointed by the county judge/executive, *one of whom shall be a member of the general assembly in whose district the county or part of the county is located* [in the following manner:

(a) One (1) commissioner from a list submitted by the local restaurant association or associations;
(b) One (1) commissioner from a list submitted by the local chamber of commerce;
(c) One (1) commissioner by the county judge/executive; and
(d) Two (2) commissioners from a list submitted by the local hotel and motel association or associations]

(2) Vacancies shall be filled in the same manner that original appointments are made.

(3) The commissioners shall be appointed for terms of three (3) years, provided that in making the initial appointments, the county judge/executive shall appoint two (2) commissioners for a term of three (3) years, two (2) commissioners for a term of two (2) years, and one (1) commissioner for a term of one (1) year.

(4) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purpose of KRS 83.340 to 83.350. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; Provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(5) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the county judge/executive of each county.

The Committee on Judiciary-Courts reported **HB 9**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Subsitute to **HB 9** is as follows:

HB 9, AN ACT relating to labor relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.130 is amended to read as follows:

(1) Employes may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employes, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.

(2) Neither employers or their agents nor employes or associations, organizations or groups of employes shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.

(3) Except in instances where violence, personal injury, or damage to property have occurred and such occurrence is supported by an affidavit setting forth the facts and circumstances surrounding such incidents, the employes and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held, unless the employes or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.

(4) Submission of a false affidavit concerning violence, personal injury, or damage to property shall constitute a violation of KRS 523.030. In the absence of any such affidavit alleging violence, personal injury, or damage injunctions shall be issued only by a circuit judge or other justice or judge acting as a circuit judge pursuant to law.

The Committee on Judiciary-Courts reported **HB 500** and **HB 582**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 500, AN ACT relating to the penalty for a violation of KRS 186.210 (false statements in applications — possession of plates and receipts).

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045 (5), 186.050, 186.056, 186.060, 186.070, 186.110, 186.130, 186.140, 186.150, 186.160, 186.170, 186.180, [186.210,] 186.230, or

186.655 to 186.680 shall be fined not less than $10.00 nor more than $100 for each offense.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be fined not less than $10.00 nor more than $2,000 or imprisoned for not more than one (1) year, or both.

(3) Unless another penalty is provided by law, any person who violates any of the provisions of KRS 186.400 to 186.640 shall be fined not less than $2.00 nor more than $500 or imprisoned for not more than six (6) months, or both.

(4) Any clerk or judge failing to comply with subsection (1) of KRS 186.550 shall be subject to a penalty of $100 which shall accrue to the state and may be recovered with costs of the suit in a civil action brought by the department.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have same on his or her person or misplaced or lost same, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment or cost.

(6) Any person who steals a motor vehicle registration plate shall be guilty of a felony and shall be confined in the penitentiary for not less than one (1) nor more than five (5) years. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates any of the provisions of KRS 186.210 shall be guilty of a class A misdemeanor.

HB 582, AN ACT relating to jurisdiction of circuit courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

Notwithstanding any statutory provisions to the contrary, actions against the Commonwealth shall be brought in the circuit court of the county where the cause of action arose.

The Committee on Public Utilities and Transportation reported **HB 289** with Committee Substitute attached thereto, **HB 528** with Committee Amendment attached thereto, **HB 623,** with Committee Amendment attached thereto, and **SB 94** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 289, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application by persons whose operator's license has been suspended or revoked, the department of transportation shall issue an occupational operator's license.

(2) An occupational operator's license shall be issued to a person who has a demonstrated need to operate a motor vehicle as an essential part of that person's livelihood, family obligation or both.

(3) Occupational operator's license shall be limited in use to the operation of a motor vehicle for essential purposes.

(4) In addition to the occupational license, the department shall issue to the driver one (1) or more certificates no less than three (3) inches in diameter bearing the legend "Restricted Driver." No person using an occupational operator's license shall operate a motor vehicle which does not have a restricted driver certificate affixed to its windshield.

(5) Occupational operator's licenses shall expire one (1) year from issue and shall not be renewable. In the event that the operator's license of the driver is suspended or revoked for a period exceeding one (1) year, the holder of an occupational operator's license may reapply to the department upon expiration of the license.

(6) Applicants for an occupational operator's license shall pay to the circuit clerk a fee of two hundred fifty dollars ($250). The clerk shall retain one hundred twenty-five dollars ($125) and one hundred twenty-five dollars ($125) and shall be forwarded to the department.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

If any holder of an occupational operator's license violates any of the restrictions or conditions of his occupational operator's license, the license shall be revoked and the holder thereof shall be fined not more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both.

The Committee Substitute to **HB 289** is as follows:

HB 289, AN ACT relating to motor vehicle operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall issue an occupational operator's license upon application by persons whose operator's license has been suspended or revoked for one or more of the following reasons:

(a) driving a vehicle while under the influence of intoxication liquor or narcotic drugs;

(b) failure to consent to a test for alcohol in blood under the provisions of KRS 186.565; or

(c) habitually reckless or negligent driver under the provisions of KRS 186.570 subsection (1)(d).

(2) An occupational operator's license shall be issued to a person who has a demonstrated need to operate a motor vehicle as an essential part of that person's livelihood and shall be strictly limited to occupational purposes, including only uninterrupted travel from a place of residence to a place of employment and travel during the course of employment.

(3) A person shall be eligible for only one occupational operator's license during their lifetime with the exception that it shall be renewable on a continuous basis for the term of the revocation or suspension, if such were for a period exceeding one year.

(4) An occupational operator's license shall be immediately revoked upon conviction of any violation which would result in the suspension or revocation of a regular operator's license, or which would result in as many as three (3) points being assessed against a regular operator's license under the "point system".

(5) Applicants for an occupational operator's license shall pay to the circuit clerk a fee of two hundred and fifty dollars ($250). The clerk shall retain the usual fee for processing an operator's license and shall forward the remainder of the fee to the department of transportation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

If any holder of an occupational operator's license violates the provisions of subsection (2) of this Act, the license shall be revoked and the holder thereof shall be fined not more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both.

HB 528, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The department of transportation shall issue, free of charge, a certificate of registration and one (1) license plate to each recipient of the congressional medal of honor who is a resident of Kentucky.

(2) The license plate in subsection (1) of this section shall be printed in two (2) colors, blue and white, and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each tag shall contain the name or an abbreviation of the state and the words "Medal of Honor", in lieu of registration numbers.

(3) License plates provided under this section shall be issued only as long as the medal of honor recipient is the owner of the motor vehicle. Such license plates are not transferable to any person not entitled to them under this section. License plates issued under this section shall expire on December 31.

(4) No county, city or any other political subdivision of this state shall require any license fee from any medal of honor recipient for the privilege of operating a motor vehicle upon the streets or alleys of any political subdivision, any other provisions of laws to the contrary notwithstanding.

(5) Application for the special license plates shall be made to the department in accordance with such regulations as the department may have issued.

(6) The department may make such reasonable rules and regulations as it deems necessary to further the purpose of this section.

The Committee Amendment to **HB 528** is as follows:

Amend printed copy of **HB 528,** page 1, line 12, after the words ""Medal of Honor"", by inserting "and a number of uniquely identifying each recipient".

HB 623, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) "Delivery" of a motor vehicle to a dealer by a manufacturer or distributor for the purposes of this section, shall be accomplished by the:

(a) Tender of the motor vehicle and any documents necessary to enable the dealer to obtain title and possession of the motor vehicle at the dealer's place of business or designated place of delivery, and

(b) The giving of notice of such tender of the motor vehicle and documents to the dealer.

(2) Whenever a motor vehicle is damaged while in transit when the carrier or the means of transportation is designated by the manufacturer or distributor, or whenever a motor vehicle is otherwise damaged prior to delivery to the dealer, the dealer must:

(a) Notify the manufacturer or distributor of such damage within five (5) working days of the occurrence of the delivery of the motor vehicle as defined in subsection (1), above; and

(b) Must request from the manufacturer or distributor authorization to repair the damages sustained or to replace the parts or accessories damaged.

Such notification of damage by the dealer must be by registered mail, with a notice of delivery requested to be returned to the dealer, and shall be presumed to have occurred upon deposit of the notice with the United States postal service.

(3) In the event the manufacturer or distributor refuses or fails to authorize repair or replacement of any such damage within five (5) working days of notification of damage by the dealer, ownership of the motor vehicle shall revert to the manufacturer or distributor, and the dealer shall incur no obligations, financial or otherwise, for such damage to the motor vehicle. In determining when such notification of the damage by the dealer to the manufacturer or distributor occurs, the date the notice is received by the manufacturer or distributor by the United States postal service indicated on the notice of delivery returned to the dealer, shall be controlling.

(4) In computing the lapse of five (5) working days under this section, the day of the occurrence of delivery of the motor vehicle to the dealer by the manufacturer or distributor, as defined in subsection (1), above, or the day of notification of the damage to the manufacturer or distributor by the dealer, as described in subsection (3), above, is not to be included, but the last working day of the period so computed is to be included.

(5) Prior to the sale of any motor vehicle damaged prior to delivery to the dealer as described in subsection (2), above, the occurrence and extent of such damage must be disclosed by the dealer to the consumer, and upon repair of the damage sustained, or replacement of the parts or accessories damaged, the manufacturer must certify to the consumer that the motor vehicle has been repaired or remanufactured to the manufacturer's standards. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the manufacturer.

(6) Whenever a motor vehicle is damaged after delivery to the dealer by the manufacturer or distributor, as defined in subsection (1), above, but before sale by the dealer to the consumer, the occurrence and extent of such damage must be disclosed by the dealer to the consumer prior to such sale, and upon repair of the damage sustained, or replacement of parts or accessories damaged, the dealer must certify to the consumer that this motor vehicle has been repaired remanufactured according to the manufacturer's standards. Upon such certification, liability for any concealed damages then remaining with the motor vehicle shall lie with the dealer.

Section 2. KRS 190.046 is amended to read as follows:

(1) *Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsiblity for and shall defend, idemnify and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, or lawsuits resulting from warranty defects, which shall include structural or production defects or defects in the assembly, performance, or design of motor vehicles, parts, accessories, or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair such defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.* [A

manufacturer or distributor shall pay reasonable compensation to any authorized motor vehicle dealer who performs work to rectify the manufacturer's or distributor's product on warranty defects. Reasonable compensation comprehends diagnosing the defect plus reasonable administrative and clerical cost.]

(2) In the determination of what constitutes "reasonable compensation" under this *section* [law] the principal factor to be considered shall be the amount of money which the [authorized] dealer is charging its other customers for the same type service or repair work. However, other factors such as the compensation being paid by other manufacturers or distributors to their dealers for such work; and the prevailing amount of money being paid or charged by the dealers [all] in the city or community in which the authorized dealer is doing business may be considered. *"Reasonable compensation" comprehends diagnosing the defect, repair service, labor, parts and administrative and clerical costs, and in no event,shall such compensation of a dealer be less than the amount charged by such dealer for like services and parts to retail customers for non-warranty service and repairs, or less than the amounts indicated for such work on the schedule of warranty compensation required to be filed by the manufacturer with the bureau as a part of the manufacturer's license application by KRS 190.030.*

(3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission by mail of a valid warranty claim. If a valid warranty claim is not paid within [the said] forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If after fifteen (15) days, the valid warranty claim is still not paid, the dealer may deduct a like amount from any monies due or owing to the manufacturer or distributor. The dealer must hold the defective part or parts for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons the manufacturer will extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

SECTION 3. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

In the event a manufacturer or distributor recalls any of its products, the manufacturer or distributor must include within the written notice thereof to vehicle owners and dealers the expected date by which necessary parts and equipment will be available for the correction of the defects necessitating the recall.

SECTION 4. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

Included within the application for a license to engage in business within this state as a manufacturer of motor vehicles must be a schedule specifying the compensation to be paid the manufacturer's dealers for parts, work and service in connection with warranty service and repairs which shall include compensation for diagnostic work, as well as repair service and labor.

Amend printed copy of **HB 623,** page 7, line 24, by adding the following: "Section 5. KRS 90.049, controversies as to transportation costs and damages of new motor vehicles, is hereby repealed."

SB 94, AN ACT relating to radiation control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Kentucky Radiation Control Act of 1978".

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The department for human resources is the radiation control agency of the state of Kentucky.

(2) The department for human resources shall issue licenses pertaining to radioactive materials and require registration of other sources of ionizing radiation.

(3) The department for human resources shall develop and conduct programs for evaluation and control of hazards associated with the use of any and all sources of ionizing and electronic product radiation.

(4) The department or its duly authorized representative may enter at any reasonable time upon the property of any licensee, registrant or other person where sources of ionizing or electronic product radiation

are reasonably believed to be located for the purpose of determining whether or not such licensee, registrant or other person is in compliance with or in violation of the provisions of this Act and rules and regulations promulgated hereunder, and the owner, occupant, or person in charge of such property shall permit such entry and inspection; provided, that entry into areas under the jurisdiction of an agency of the federal government or its duly designated representative shall be only upon permission of such agency or said representative.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The department for human resources shall provide by regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. Such regulations shall include but need not be limited to specification of the form of applications for registration and licenses, the qualifications therefor, grounds for revocation and such other matters as may be necessary to carry out the intent of this Act and to protect the public from unnecessary radiation exposure.

(2) All rules and regulations adopted prior to the effective date of this Act by the department for human resources and on file with the legislative research commission shall continue in full force and effect unless subsequently amended or repealed pursuant to the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The department for human resources shall monitor radioactive waste material sites in Kentucky for the protection of the public health, safety and welfare. The executive department for finance and administration and the department for human resources shall cooperate and coordinate their activities in the leasing, regulation, monitoring and control of radioactive waste material burial sites.

SECTION 5. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The secretary for human resources shall fix a reasonable schedule of fees and charges, by regulation, to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for renewal of such certificates and licenses. The secretary shall also prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the department.

(2) All fees and charges collected by the department for human resources under the provisions of this Act or the rules and regulations adopted pursuant to this Act shall be paid into the state treasury and credited to a trust and agency fund to be used by the department for human resources in carrying out the provisions of this Act.

(3) State and local governmental agencies shall be exempt from the payment of fees but shall comply with the other provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Whenever, in the opinion of the attorney general or the secretary of the department for human resources, the person is violating or is about to violate any of the provisions of this Act, or any regulation lawfully promulgated pursuant thereto, the attorney general or the secretary may apply to the appropriate court for an order enjoining the person from engaging or continuing to engage in the violative act, and upon a showing that such person has engaged or is about to engage in such activity, a restraining order or permanent or temporary injunction, or any other appropriate order shall be granted.

SECTION 7. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of this Act or any regulation adopted hereunder or any order issued by the department for human resources to comply with any provision of this Act or the regulations adopted hereunder shall be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or confined for not less than thirty (30) days nor more than twelve (12) months, or both. Each day of violation or noncompliance shall constitute a separate offense.

SECTION 8. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky house of representatives, a majority of the members of the Kentucky senate and the approval of the governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval to the Kentucky general assembly, it must first receive the approval of the secretary of the department for human resources and the secretary of the department for natural resources and environmental protection. It shall be the responsibility of the department for human resources and the department for natural resources and environmental protection to ensure that a comprehensive environmental impact statement is

submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This Act shall not apply to nuclear waste disposal facilities in existence prior to the effctive date of this Act.

Section 9. KRS 152.690 and 152.990 are repealed.

The Committee on Business Organizations and Professions reported **HB 599** with Committee Amendment attached thereto, **HB 642, SB 123, SB 236,** and HB 424 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 599, AN ACT relating to real estate brokers and salesmen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Associate broker" means any person who for compensation or valuable consideration is *associated* [employed] directly or indirectly *with* [by] a broker to perform all the functions authorized by a brokers license only for and on behalf of such *principal* [employing] broker including but not limited to authority to supervise other salesmen *associated with* [employed by] a broker and manage an office on behalf of a broker.

(b) "Association" means the National Association of Realtors.

(c) "Broker" means any person who for a fee, commission, compensation or other valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, or refers or offers to refer for the purpose of securing prospects, any real estate or the improvements thereon for others, as a whole or partial vocation.

(d) "Commission" means the Kentucky real estate commission.

(e) "Real estate" includes leaseholds and other interests less than leaseholds.

(f) "Salesman" means any person who for a fee, commission, compensation or other valuable consideration is *associated* [employed] either directly or indirectly *with* [by] a broker to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to lease or negotiate leases thereof or to rent or offer for rent, or to refer or offer to refer for the purpose of securing prospects any real estate, the improvements thereon for others as a whole or partial vocation.

(g) "Approved real estate school" means a school that has been given a certificate of approval by the Kentucky real estate commission and is currently in good standing.

(h) "Accredited real estate school" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward an associate degree or a baccalaureate degree to those students successfully completing a course in real estate.

(2) One act for a fee, commission, compensation or other valuable consideration of buying or selling real estate of or for another, or offering for another to buy, sell or exchange real estate, or leasing, renting or offering to rent real estate, or referring or offering to refer real estate for the purpose of securing prospects shall constitute the person performing, offering or attempting to perform such act as a broker, associate broker or salesman.

Section 2. KRS 324.040 is amended to read as follows:

(1) Every applicant for a license, whether as broker, associate broker or salesman, shall state whether or not the applicant has ever had any broker's, associate broker's or salesman's license revoked or suspended. It shall be accompanied by the license fee prescribed by KRS 324.070, but, if the commission does not issue the license, the fee shall be returned to the applicant. Every applicant for a license shall furnish a sworn statement setting forth his business and residence address.

(2) Every applicant for a broker's license shall apply in writing upon blanks prepared or furnished by the commission. He shall state the name of the person or company with which he will be associated in the business of real estate, and the location of the place for which the license is desired, and shall set forth the period of time, if any, during which he has been engaged in the real estate business.

(3) Every applicant for a salesman's or associate broker's license shall set forth the name and place of business of the company *with whom he is to be associated* [then employing him or into whose service he is about to enter].

(4) Every applicant for a license shall be at least eighteen years of age and shall have attained a high school diploma or its equivalent. After an applicant passes the required examination, the commission shall issue a license to him.

Section 3. KRS 324.080 is amended to read as follows:

The commission shall issue to each licensee a license in such form and size as shall be prescribed by the commission. This license shall show the name and address of the licensee and, in case of an associate broker's or salesman's license, shall show the name of the real estate broker *with* [by] whom he is *associated* [employed]. Each license shall have imprinted thereon the seal of the commission,and in addition to the foregoing shall contain such matter as shall be prescribed by the commission. The license of each associate broker or salesman shall be delivered or mailed to the real estate broker *with* [by] whom such associate broker or salesman is *associated* [employed] and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

Section 4. KRS 324.100 is amended to read as follows:

The commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the commission and shall certify that the person whose name appears thereon is a licensed real estate broker, associate broker or salesman, as the case may be, and if it is an associate broker or salesman's card it shall contain the name and address of his *principal broker* [employer]. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the commission.

Section 5. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license or levy fines not to exceed five hundred dollars ($500) or both for any of the following causes:

(a) Obtaining a license through false or fraudulent representation.

(b) Making any substantial misrepresentation.

(c) Making any false promises of a character likely to influence, persuade or induce.

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom he acts.

(f) Accepting valuable consideration as a salesman or associate broker for the performance of any of the acts specified in this chapter, from any person, except his *principal broker* [employer].

(g) Representing or attempting to represent a broker other than *a principal broker* [an employer], without the express knowledge and consent of *that principal broker* [the employer].

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his possession.

(i) Paying valuable consideration to any person for services performed in violation of this chapter.

(j) Using the term "realtor" by one not a member of the association.

(k) *Entering a plea of guilty or nolocontendere to, or found guilty of, or been convicted of, a felony, in which fraud is an essential element, and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence; or soliciting, selling or offering for sale real property under a scheme or program that constitutes a lottery or deceptive practice, or acting in the dual capacity of broker and undisclosed principal in the transaction.*

(l) Guaranteeing, authorizing or permitting a person to guarantee that future profits will result from a resale of real property.

(m) Negotiating or attempting to negotiate the sale, exchange, lease or rental of real property with an owner or lessor knowing that the owner or lessor had a written outstanding contract granting exclusive agency in connection with the property to another real estate broker.

(n) Publishing or circulating an unjustified or warranted threat of legal proceedings or other such action.

(o) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document.

(p) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the Commission which would indicate a violation of this Act.

(q) Violating any of the provisions in this chapter of any lawful order, rule or regulation made or issued under the provisions of this chapter.

(r) Any other conduct that constitutes improper, fraudulent or dishonest dealing.

(2) *Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in KRS 324.160(1)(r)(k).*

(3) No unlawful act or violation of any provision of this chapter by any salesman, associate broker, employe, partner or associate of a broker shall be cause for the revocation of the license of that broker, unless it appears to the satisfaction of the commission that he had guilty knowledge of it.

Section 6. KRS 324.170 is amended to read as follows:

The commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested or by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be an associate broker or salesman the commission shall also notify the broker *with whom he is associated* [employing him] or whose employ he is about to enter by mailing notice by certified mail, return receipt requested or by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

Section 7. KRS 324.210 is amended to read as follows:

Any party aggrieved by the action of the commission in refusing to grant a license or in suspending or revoking a license may, within ten (10) days after the entry of such order of refusal, revocation, *fine* or suspension, file in the office of the clerk of the *Franklin* circuit court [of the county in which the action of the commission is applicable], an attested copy of the proceedings before the commission, provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the clerk of the circuit court, with good and solvent surety. The commission shall be a necessary party to all such appeals. The circuit court clerk shall thereupon docket the case [as though it were a petition in equity] and shall immediately issue a summons for such commission [, and said summons shall be returned in the same manner as are summonses in equity cases]. No formal pleadings shall be required in such appeals and the case shall be set down by the court for a hearing, and after such hearing the court shall enter a judgment sustaining or setting aside the order of the commission. Either party may appeal to the Court of Appeals from the judgment of the circuit court in the same manner as an appeal can be taken [from a judgment in equity cases].

Section 8. KRS 324.230 is amended to read as follows:

The revocation of a broker's license shall automatically suspend every associate broker or salesman's license granted to any person by virtue of his *association with* [employment by] the broker whose license has been revoked, pending a change of *principal broker* [employer] and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 9. KRS 324.283 is amended to read as follows:

Each member of the commission shall receive as compensation *six* [four] thousand [eight hundred] dollars *($6,000)* [($4,800)] per annum and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

Section 10. KRS 324.310 is amended to read as follows:

When any associate broker or salesman shall be discharged or shall terminate his *association* [employment] with the real estate broker *with* [by] whom he is *associated* [employed], it shall be the duty of such real estate broker to immediately deliver or mail by certified mail, return receipt requested or by registered mail to the commission such associate broker's or salesman's license. The real estate broker shall, at the time of mailing such associate broker's or salesman's license to the commission, address a communication to the last known residence address of such associate broker or salesman, which communication shall advise such associate broker or salesman that his license has been delivered or mailed to the commission. A copy of such communication to the associate broker or salesman shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any associate broker or salesman to perform any of the acts contemplated by this chapter either directly or indirectly under authority of said license from and after the date of receipt of the said license from said broker by the commission; Provided, That another license shall not be issued to such associate broker or salesman until he shall return his former pocket card to the commission or shall satisfactorily account to it for the same. Provided, further, That not more than one (1) license shall be issued to any associate broker or salesman for the same period of time.

Section 11. KRS 324.990 is amended to read as follows:

In addition to the penalties set out in this chapter, a circuit court may impose an additional penalty on any person who violates any provision of this chapter *by fining them* [shall be fined] not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or *imprisoning them* [imprisoned] for a term not to exceed six (6) months, or both. Upon conviction, in addition to the aforesaid fine, there shall be added to the fine the amount of any real estate brokerage commission paid or received as a result of the violation or violations in question. Each transaction shall be regarded as a separate offense and shall be punished as such.

The Committee Amendment to **HB 599** is as follows:

Amend printed copy of **HB 599,** page 6, line 19, by placing a bracket before "(j)" and on line 20, by placing a bracket after the word "association.]"; and by relettering the subsequent subsections.

HB 642, AN ACT relating to travel agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context clearly requires otherwise:

(1) "Division" means division of occupations and professions of the executive department for finance and administration.

(2) "Travel agency" means any person, firm or corporation who holds out directly or indirectly that they are able or offering or undertaking by any means or method, to arrange or book travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus or other medium of transportation or hotel or other lodging accommodations for a fee, commission or other valuable consideration. A travel agency shall have at least one major appointment as sales agent by either the air traffic conference or the international air transport association.

(3) "Travel agent" means any person employed by a travel agency whose principal duties include consulting with and advising persons concerning travel arrangements or accommodations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) On or after September 1, 1978, it shall be unlawful for any person to establish, operate or maintain a travel agency within the Commonwealth of Kentucky without being registered with the division and having a valid permit issued in accordance with the provisions of this Act.

(2) Upon satisfactory completion of all requirements under this Act, a travel agency shall be issued a permit to conduct business which shall be valid for one (1) year. All permits shall expire on June 30 of each year.

(3) Each travel agency shall pay a permit fee of seventy-five dollars ($75) except that the fee for a permit issued within six (6) months of the expiration date shall be prorated. The fee for the annual renewal of a permit shall be seventy-five dollars ($75). The fee for a duplicate of a permit destroyed, lost or mutilated shall be five dollars ($5). Duplicate permits shall be issued without additional charge to permit holders operating more than one office.

(4) A travel agency shall post its permit conspicuously in its place of business.

(5) No permit shall be assignable or transferable, provided however, a bona fide purchaser of a travel agency may continue to operate under the permit of the seller for forty-five (45) days after purchase, provided the purchaser applies for a new permit within fifteen (15) days of the purchase.

(6) This Act shall not prohibit any school system, fraternal organization or similar type of group to conduct a tour where tours are conducted without remuneration in any form to the organization and does not include the general public; provided that the exempt groups, when conducting a tour involving transportation reservations or overnight accommodations, shall register with the division and give to each member of the tour a written notice to include a warning that the sponsoring group is not bonded or regulated by this Act. Further, the provisions of this Act shall not apply to direct common carriers or employes of direct common carriers when engaged in the business of their employers.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) Every application for a travel agency permit shall be accompanied by a surety company bond in the amount of $10,000.

(2) The bond shall be executed by a surety company authorized to do business in this state and shall be made to the division. The liability of the surety on the bond shall be limited to indemnify the claimant only for his actual damage. Such bond shall not limit or impair any right of recovery otherwise available pursuant to

law nor shall the amount of damage or other relief to which any claimant shall be entitled. The bond shall be accessible only after all other legal remedies have been exhausted.

(3) If a bond is exhausted, the travel agency shall immediately notify the division which shall cause public notice to be given as it deems appropriate.

(4) A permit application shall also be accompanied by a list of names and addresses of all travel agents employed by the travel agency. Any change in the list shall be transmitted to the division within ten (10) days of the change.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A travel agency shall be obligated to fulfill substantially any promise, guarantee, or representation regarding any trip which it makes to any person with whom the travel agency contracts for such a trip, when the promise, guarantee or representation is in writing by any employe of the travel agency, or read or shown to any person by the travel agency. The travel agency shall refund to any person with whom it contracts for a trip, monies lost by the person as a result of a failure to fulfill substantially any such promise, guarantee or representation. The refund shall be made within twenty-one (21) days from the date it is requested and shall not be contingent on the travel agency's first recovering the amount sought from any other party which was allegedly responsible for the failure.

(2) Nothing contained herein shall restrict the right of a travel agency to refuse a refund and to require ordinary civil adjudication of the dispute. However, this section shall not limit the right of the travel agency to recover from or be responsible for the failure of all or part of the monies it refunded to the consumer pursuant to this section.

(3) All contracts offered by a travel agency to a consumer shall contain the complete text of subsections (1) and (2) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) A travel agency permit may be denied or revoked for the following reasons:

(a) Fraud or bribery in securing a permit;

(b) Failure to satisfactorily meet the requirements of Sections 2, 3, and 4 of this Act;

(c) Publication or circulation of any statement with the intent to deceive, misrepresent or mislead the public;

(d) Any fraud or fraudulent practice in the operation of a travel agency business, including, but not limited to, intentionally misleading advertising;

(e) Aiding or abetting any person, firm or corporation not registered in this state in the business of conducting a travel agency.

(2) Any travel agency which has had its permit revoked shall not be eligible to reapply for a permit for a period of two (2) years from the date of revocation. The reissuance of a permit to a travel agency whose permit has been revoked shall be further contingent on the repayment in full of all claims against the travel agency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

The attorney general of the Commonwealth of Kentucky shall investigate any complaint of any violation of this Act and shall bring an action on behalf of the Commonwealth to recover damages for aggrieved parties or to restrain or prevent any violation of this Act.

Section 7. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act or practice declared unlawful by KRS 367.170, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys or falsifies documentary material is subject to a fine of not less than $100 nor more than $5,000.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The circuit court of any county in which any plan described in KRS 367.350 is proposed, operated or promoted may grant an injunction without bond, upon complaint filed by the attorney general to enjoin the further operation thereof, and the attorney general may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of $5,000 which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than $50 and not more than $500 for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the attorney general, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9)(a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000) per violation. For the purposes of this section, the circuit court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the Commonwealth may petition for recovery of civil penalties.

(b) The attorney general may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.655 a penalty of not more than two thousand dollars ($2,000) per violation.

(10) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of $100 per violation to be collected in the name of the Commonwealth upon action of the attorney general.

(11) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding $1,000 to be collected in the name of the Commonwealth upon action by the attorney general.

(12) Any person who owns or operates or holds himself out to be a travel agency or travel agent without registering and securing a permit in accordance with the provisions of this Act, shall be fined one hundred dollars ($100) for each day he is in non-compliance with this Act. For any subsequent offense, a person may be imprisoned for a term not less than thirty (30) days nor more than six (6) months in addition to the fine.

SB 123, AN ACT relating to the licensing of auctioneers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 330.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Apprentice auctioneer" means any person who [, for compensation or valuable consideration or otherwise,] is employed, directly or indirectly, by an auctioneer to deal or engage in any activity in subsection (2);

(2) "Auctioneer" means any person who [, for a fee, commission or any other valuable consideration, or with the intention or expectation of receiving the same, by the means of, or process of, an auction or sale at auction,] offers, negotiates or attempts to negotiate a listing contract, sale, purchase or exchange of goods, chattels, merchandise, real or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction, *or who sells the same at auction*;

(3) "Board" means the board of auctioneers;

(4) "Goods" means any chattels, goods, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale; .

(5) "Persons" includes individuals, associations, partnerships and corporations, and the word "persons" shall also include the officers, directors and employes of a corporation.

Section 2. KRS 330.040 is amended to read as follows:

KRS 330.030 shall not apply to:

(1) Sales at auction conducted by or under the direction of any public authority or pursuant to any judicial order or decree, or to any sale required by law to be at auction.

(2) *Sales at auction* [The owner] of any real or personal property *conducted exclusively by an individual who personally owns such real or personal property and who did not acquire such real or personal property for resale.*

(3) Any resident or nonresident crier or auctioneer who simply calls for bids and strikes the bargain at any auction sale of registered or purebred livestock or who cries or acts as auctioneer in show cattle sales or the sale of livestock owned and sold at auction by 4-H Clubs or FFA Clubs or club members.

(4) A sale conducted by or on behalf of any political party, church or charitable corporation or association if the individual conducting the sale receives no compensation and does not, by advertising or otherwise, hold himself out as being available to engage in the sale of goods or real estate at auction.

Section 3. KRS 330.050 is amended to read as follows:

(1) There is hereby created a board of auctioneers. The governor shall appoint a board consisting of five (5) members, three (3) of whom immediately prior to the date of their appointment have been residents of the Commonwealth of Kentucky for five (5) years, and whose vocation for a period of at least five (5) years has been that of an auctioneer. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the board shall be for three (3) years and until their successors are appointed and qualified. Members to fill vacancies shall be appointed for the unexpired term.

(2) At no time shall there be more than three (3) members of the same political faith on the board. Whenever there is a vacancy on the board, the Kentucky Auctioneer Association shall recommend to the governor at least three (3) names for each auctioneer vacancy and such appointment or appointments shall be made from the recommendations of the association.

(3) The board, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairman.

(4) Each member of the board shall receive the sum of twenty-five dollars ($25.00) per day as full compensation for each day actually spent on the work of the board and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

(5) The board shall have full authority to employ, and discharge, a secretary and such other personnel as may be necessary to administer and enforce the provisions of this chapter, and it shall outline the duties and fix the compensation of such persons, which compensation shall be comparable to the salaries paid other state employes doing similar work. The board shall obtain office space, furniture, stationery and any other proper supplies and conveniences reasonably necessary to carry out the provisions of this chapter.

(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into the state treasury through the executive department for finance and administration and shall be credited to an agency-fund account for the board of auctioneers under the provisions of KRS 45.140 and shall be withdrawn or expended as provided in that section. The total expenses for all purposes and obligations of the board shall not exceed the total fees, charges, fines and penalties imposed under the provisions of this chapter and paid into the state treasury. The board shall be financially self-sustaining, and if funds permit it may underwrite, within its financial limitations, educational programs for the enlightenment and benefit of all auctioneers and apprentice auctioneers who have paid fees pursuant to this chapter.

(7) The board shall annually publish a list of the names and addresses of all auctioneers and apprentice auctioneers licensed by it pursuant to this chapter. This list shall also contain the names of all persons whose licenses have been suspended or revoked within the preceding year, as well as any other information relative to the enforcement of the provisions of this chapter that the board may deem of interest to the public.

(8) The board may from time to time promulgate necessary rules and regulations.

Section 4. KRS 330.070 is amended to read as follows:

(1) In addition to the other qualifications provided for by this chapter, every applicant for an auctioneer's license shall be at least eighteen (18) years of age and be a citizen of the United States. In addition an applicant shall have served a bona fide apprenticeship for a period of one (1) year as an apprentice auctioneer in Kentucky. Every application for a license, whether as an auctioneer or apprentice auctioneer, shall be submitted on forms prepared by the board.

(2) Every applicant for an apprentice auctioneer's license shall be a citizen of the United States and at least eighteen (18) years of age. In addition to other requirements imposed by this chapter, the applicant shall furnish pertinent background data as outlined on the application forms furnished by the board.

(3) The issuance fee for each auctioneer's and apprentice auctioneer's license shall be *not more than fifty dollars ($50)* [$15.00] and the annual renewal fee for each license shall be *not more than fifty dollars ($50)* [$15.00]. All licenses shall expire on June thirtieth of each year. In the absence of any reason or condition which might warrant the refusal of the renewing of the license, and upon receipt of the written request of the applicant and the annual fee therefor, the board shall issue a new license for each ensuing year.

(4) The board shall prepare and deliver to each licensee a license certificate and pocket card. The certificate shall be displayed conspicuously at all times in the office of the licensee. The certificate and pocket card of the apprentice auctioneer shall contain the name and address of the auctioneer under whose supervision he is employed.

(5) When any apprentice auctioneer is discharged or terminates his employment with the auctioneer for any reason, it shall be the immediate duty of the auctioneer to deliver or mail by certified mail, return receipt requested or by registered mail to the board the license of the apprentice auctioneer. It shall be unlawful for any apprentice auctioneer to perform any of the acts contemplated by this chapter either directly or indirectly, under authority of his license, until the apprentice auctioneer receives a new license bearing the name and address of his new employer. No more than one (1) license shall be issued to any apprentice auctioneer for the same period of time.

(6) Notice in writing shall be given to the board by each licensee of any change of principal business location, whereupon the board shall issue a new license for the unexpired period. A change of business location without notification to the board shall automatically cancel the license previously issued. Changing a business location and issuance of a new license shall entitle the board to collect $3.00.

Section 5. KRS 330.170 is amended to read as follows:

(1) Any auctioneer or apprentice auctioneer who has had his license revoked shall not be issued another license for a period of five (5) years from the date of revocation.

(2) The revocation of an auctioneer's license shall automatically suspend every apprentice auctioneer's license granted to any person by virtue of his employment by the auctioneer whose license has been revoked. The apprentice auctioneer may retain his license, by transferring to the employment of another licensed auctioneer within *thirty (30)* [ten (10)] days.

Section 6. KRS 330.200 is amended to read as follows:

No municipality or other political subdivision shall regulate, tax or license auctioneers or apprentice auctioneers, except for such regulations, taxes or licenses which may be reasonably imposed or required among all persons engaged in business generally [Nothing contained in this chapter shall affect the power of municipalities to tax, license or regulate auctioneers and apprentice auctioneers. The requirements of this chapter shall be in addition to the requirements of any existing or future ordinances of any municipality so taxing, licensing or regulating auctioneers or apprentice auctioneers].

Section 7. KRS 330.990 is amended to read as follows:

Any person who *wilfully* violates *any provision of* KRS *Chapter 330 or any rule or regulation promulgated in accordance with KRS Chapter 330* [330.030] shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment for a term not to exceed ninety (90) days, or both.

SB 236, AN ACT relating to fermentation of wine for personal, household, or family use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

No person in areas where the sale of alcoholic beverages are legal shall be prohibited from fermenting wine for his personal, household, or family use, provided such person does not ferment more than two hundred (200) gallons of wine for any one (1) calendar year and provided the person has validly registered pursuant to federal law, and nothing in any statute shall be construed as preventing retail establishments from selling home wine making kits.

HB 424, AN ACT relating to racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

At every track in the Commonwealth where any form of horse racing is conducted, any box seat sold to a married person shall be registered in the name of both husband and wife, with right of survivorship.

The Committee on Appropriations and Revenue reported **HB 264, HB 502, HB 609**, and **HB 694** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 264, AN ACT relating to taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.020 is amended to read as follows:

(1) All state, county, and district taxes, except as otherwise provided by law, shall be due and payable on September 15 following the assessment; except that all taxes in any year on unmanufactured tobacco, money in hand, or money on deposit outside this state, shall be due and payable on the second succeeding September 15 following the assessment, unless otherwise provided by law.

(2) Any taxpayer who pays his state, county, or district taxes by *December 31* [November 1] after they become due in any year shall be entitled to two per cent (2%) discount thereon, and the sheriff shall allow the discount and give a receipt in full to the taxpayer. The sheriff may, at any time after the taxes mentioned in this section become due, receive less than the face amount of the tax bill as a credit on the amount due, including the amount of any penalties then due; and every such payment shall be credited upon the tax bill or upon sheets annexed thereto for that purpose, and acknowledged in writing or by a rubber stamp, indicating the amount so paid to the sheriff.

(3) All state, county, and district taxes, except as otherwise provided by law, shall become delinquent on *February* [January] 1 following their due date.

(4) Any taxes which are not paid by the date when they become delinquent shall be subject to a penalty of ten per cent (10%) on the taxes due and unpaid; except that taxes which became delinquent on *February* [January] 1 shall be subject to a penalty of only two per cent (2%) on the taxes due and unpaid, if paid on or before the last day of *February* [January]. The sheriff shall collect the penalty and account for it as he is required to collect and account for taxes.

HB 502, AN ACT relating to taxation of motor vehicles and trailers.

WHEREAS, the assessment and collection of property taxes on motor vehicles and trailers under existing law is both inefficient and inequitable; and

WHEREAS, the property valuation administrators are able to accurately assess only about eighty percent (80%) of the motor vehicles and trailers; and

WHEREAS, a delinquency rate of approximately fifteen percent (15%) results in an annual revenue loss of six to eight million dollars to the state and the local taxing jurisdictions and districts; and

WHEREAS, under existing law the burden of the tax falls most heavily upon the owners of real property, while many non-real property owners escape the tax entirely; and

WHEREAS, it has been determined that the most practical method of collection is at the time of registration; and

WHEREAS, the computer system established in the department of transportation to support staggered registration makes it practical for the clerk to collect the tax at the time of registration;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary for 1981 and each subsequent year, the property valuation administrator shall assess, as of July 1, for ad valorem tax purposes all motor vehicles and trailers registered to be used upon the highways other than those assessed by the department of revenue as a part of the property of public service companies under KRS Chapter 136.

(2) The department of transportation shall, by July 31, 1981 and each year thereafter, provide the property valuation administrator of each county a current listing of all motor vehicles and trailers registered for use upon Kentucky highways as of July 1. The list shall include (1) the name of the owner, (2) the address of the owner as shown on the registration or transfer certificate, (3) the make, model, and year of the vehicle, and (4) the current registration number assigned each motor vehicle or trailer.

(3) The valuation of all motor vehicles and trailers assessed under subsection (1) of this section shall be as of January 1, 1981, and each January 1 thereafter. The value placed on such motor vehicles or trailers shall be determined from a standard price guide prescribed by the department of revenue. For used motor vehicles for which values no longer appear in the price guide, value shall be determined in the same manner that "retail price" is determined for usage tax purposes pursuant to KRS 138.450(3)(c).

(4) The property valuation administrator shall prepare a tax roll of motor vehicles and trailers and by October 1 of each year send to the department of revenue a recapitulation of the roll. After reviewing the assessments as required by law, the department shall no later than November 1 of each year certify the assessments to the county clerk. The property valuation administrator shall immediately upon certification forward the tax roll to the clerk. The clerk shall forward a copy of the tax roll together with a copy of the certified tax rates for each taxing jurisdiction in the county to the department of transportation. The department of transportation shall prepare a tax bill for each vehicle on forms provided by the department of revenue. The bill shall contain the name and address of the registered owner, current registration number of the vehicle and amount of state, county, city, special district and school district taxes due. The department of transportation shall not less than thirty (30) days before the first day of the month in which renewal of registration is required mail a copy of the tax bill as a notice to the owner of a registered motor vehicle or trailer of the property tax due. The notice shall state that tax is due and payable to the county clerk on or before the registration renewal date, and if not paid by such time a lien will be filed and recorded on the certificate of title and registration of the vehicle and that payment of the tax due is not a prerequisite to registration to operate the vehicle on the highways. The original and other copies of the bill shall be forwarded to the county clerk.

(5) The department of transportation shall provide the department of revenue monthly with a recapitulation of the total assessment and taxes due each taxing jurisdiction contained in the tax bill, within fifteen (15) days after the tax bills have been prepared.

(6) The provisions of this section shall not apply to new motor vehicles and trailers or motor vehicles and trailers brought into the state and registered for the first time until the assessment date following the first registration of the vehicle in Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any statutory provisions to the contrary, beginning January 1, 1982, the county clerk shall collect all state, county, city, special district, and school district taxes on motor vehicles and trailers assessed by the property valuation administrator for 1981 and subsequent years.

(2) Taxes levied under this Act shall be due on or before the date the annual registration renewal of a motor vehicle or trailer is required.

(3) When taxes are paid on a motor vehicle or trailer, a receipted copy of the statement of taxes due, shall constitute evidence of payment.

(4) When a motor vehicle or trailer is transferred before registration renewal or before taxes due have been paid, the purchaser shall be liable for the taxes.

(5) Any tax bills on motor vehicles or trailers not paid by or on the date of registration, are delinquent. The county clerk shall file a lien on such vehicle or trailer on behalf of the state, county, city, special district and school district and record such lien on the face of the certificate of title and registration and in the manner in which lis pendens are recorded. Delinquent tax bills shall be subject to interest at the rate of one percent (1%) per month or fraction thereof from the date the lien is filed until paid.

(6) Any owner of a motor vehicle or trailer assessed by the property valuation administrator who is aggrieved by the valuation due to excessive mileage, collision damage or other reason which would render the valuation excessive, may appear before the county judge/executive within fifteen (15) days from the date of receipt of notice from the department of transportation of the taxes due and present evidence in support of his claim. The county judge/executive may adjust the assessment of a motor vehicle or trailer when the evidence warrants such adjustment, and provide the property owner with an order of adjustment for delivery to the clerk. Upon receipt of such order the clerk shall correct the tax bill. Any appeal from the action of the county judge/executive shall be in accordnce with the provisions of KRS Chapter 131.

(7) For his services in collecting taxes on motor vehicles and trailers the county clerk shall receive the following fees:

For collecting the state, county, city and special district tax, a commission of	4% of taxes collected
For collecting the school district taxes, a commission of	2% of taxes collected
For filing and releasing a lien on a delinquent motor vehicle or trailer bill	$6.00

(8) The commission for collection of the tax shall be paid by the state, county, city, special district and school district on the amount collected for each.

(9) The lien filing fee shall be added to the tax bill and be payable with the lien releasing fee by the registrant at the time of payment of the tax.

SECTION 3. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 68 to the contrary, the tax rate on motor vehicles and trailers for the preceding year shall be applied to the preceding year's total valuation of such motor vehicles and trailers and the resulting amount added to the revenue from other tangible personal property for purposes of determining the maximum permissible county revenue under KRS 68.245.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

The county clerk shall not transfer the registration on any motor vehicle or trailer against which a tax lien has been filed until the taxes have been paid and the lien has been released.

SECTION 5. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

When a person changes his domicile before the property tax on his vehicle becomes due, and renewal of registration of such vehicle is requested in the new county of domicile, he must present proof that the tax was paid in the county of previous registration or the tax shall be due in the county where the renewal is sought. The clerk shall prepare a new bill based on the value of the vehicle on the previous January 1 and the applicable tax rates of the county in which renewal is requested. If the tax bill is not paid before the registration is issued, the clerk shall file a lien as provided in Section 2 of this Act. A copy of the paid bill shall be sent to the clerk of the county where the vehicle was previously registered.

SECTION 6. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provisions of KRS Chapter 160 to the contrary, the tax rate on motor vehicles and trailers for the preceding year shall be applied to the preceding year's total valuation of such motor vehicles and trailers and the resulting amount added to the revenue from other tangible personal property for purposes of determining the maximum permissible school district revenue under KRS 160.470.

SECTION 7. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

(1) Each corporation included in KRS 136.120(1) shall annually, when filing the report required by KRS 136.130, provide to the department of revenue a listing of all motor vehicles and trailers operated, owned, or leased by it which are subject to registration in Kentucky with the latest registration or certificate number issued to such motor vehicle or trailer and the make, model and year of each vehicle.

(2) The department of revenue shall, when valuing the property of corporations or companies assessable by it, value the vehicles at no less than the value used by the property valuation administrator.

(3) In certifying the assessment of property of public service companies subject to local taxation, the department shall separately certify the amount of the assessment representing the valuation of motor vehicles and trailers or an apportionment thereof.

SECTION 8. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall, by the tenth of each month, report under oath and pay to the state, county, city, special district and school district the taxes collected by him on motor vehicles and trailers for the preceding month. All monies collected on tax bills prepared under Section 5 of this Act shall be reported and paid at the same time as a separate category.

(2) Any county clerk who fails to pay over taxes collected by him under this Act shall be required to pay a penalty of one percent (1%) for each thirty (30) day period or fraction thereof, plus interest at the rate of eight percent (8%) per annum on such taxes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 134 IS CREATED TO READ AS FOLLOWS:

(1) Each county clerk shall annually, by July 31 make a settlement with the state, county, city, special districts and school districts for all ad valorem taxes on motor vehicles and trailers collected for the prior fiscal year. In the event that any county clerk resigns, dies or otherwise vacates his office, a settlement shall be made within thirty (30) days from the date the office is vacated.

(2) On final settlement the clerk shall pay the state, county, the school district, special districts and city, all monies remaining in his hands to which they are entitled.

Section 10. KRS 134.990 is amended to read as follows:

(1) Any sheriff who violates subsection (2) of KRS 134.140 shall be fined one hundred dollars ($100) for each offense.

(2) Any person who violates the provisions of KRS 134.150 shall, upon indictment and conviction in the county in which the act was done, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), and be removed from office.

(3) Any sheriff who violates subsection (3) of KRS 134.170 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(4) Any sheriff who violates subsection (2) of KRS 134.200 shall be fined not less than five hundred dollars ($500) for each offense.

(5) Any outgoing sheriff who fails for ten (10) days to comply with the provisions of KRS 134.215 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), and be liable on his bond for any default.

(6) Any sheriff who fails to report as required in KRS 134.300 shall be liable to indictment in the county of his residence, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(7) Any sheriff who fails to report as provided in KRS 134.320 shall be liable to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each offense.

(8) Any person who wilfully fails to comply with any rule or regulation promulgated under subsection (4) of KRS 134.380 shall be fined not less than twenty dollars ($20.00) nor more than one thousand dollars ($1,000).

(9) Any sheriff who violates subsection (4) of KRS 134.430 shall be fined one hundred dollars ($100) and be liable on his official bond for the damages sustained by any person aggrieved.

(10) Any county attorney who fails to prepare, and any sheriff who fails to serve, the notice provided for in subsection (1) of KRS 134.500 shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100).

(11) Any sheriff who intentionally fails to keep his books in an intelligible manner and according to the form prescribed by the department of revenue, or to make the entries required by law, shall be fined not less than fifty dollars ($50.00) nor more than two hundred dollars ($200) for each offense.

(12) Any person who fails to do an act required, or does an act forbidden, by any provision of this chapter for which no other penalty is provided shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(13) Any county clerk who fails to make a settlement as required by Section 9 of this Act shall be subject to indictment in the county of his residence and fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000).

Section 11. KRS 132.485, Report of motor vehicle registrations — Consent to assess — Ownership — Exemptions, and 132.740, Notification of assessment, are hereby repealed.

Section 12. This Act shall become effective January 1, 1981.

HB 609, AN ACT appropriating money out of the General Expenditure Fund in the State Treasury for the purpose of paying certain claims which have been duly audited and approved according to law but which have not been paid because of the lapsing or insufficiency of former appropriations against which said claims were chargeable.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is appropriated out of the general expenditure fund in the state treasury for the purpose of compensating persons and companies herein named for claims which have been duly audited and approved according to law but which have not been paid because of lapsing of former appropriations against which said claims were chargeable, the sums hereinafter specified.

Ted R. Richardson 7174 Taylor Mill Road Independence, Kentucky 41051	$ 250.07
Gerald T. Kemper Route 3 Owenton, Kentucky 40359	1,366.38

Aleck Gribbens, Jr. 3026 Taylor Blvd. Louisville, Kentucky 40200	33.93
Jacob H. Barnard, Jr. 804 Chestnut Street Bowling Green, Kentucky 42101	473.29
National Linen Service 721 Louden Avenue P.O. Box 1233 Lexington, Kentucky 40501	591.70
Tommy Borders Wholesale Meats 200 North Floyd Street Louisville, Kentucky 40202	115.05
Thomas G. Florence 543 School Way Louisville, Kentucky 40214	4,000.00
Margaret Sanders and H. L. Hignite, jointly Danville, Kentucky 40422	1,750.00
International Foodservice Corporation Wilks & Wilks, Inc. Commercial Collection Worldwide Service Aspen Woods 2030 E. Fourth Street Suite 247 Santa Ana, California 92705	7,131.28
Battelle Memorial Institute Columbus Laboratories 505 King Avenue Columbus, Ohio 43201	5,474.31
Touche Ross and Company 513 W. Broadway Louisville, Kentucky 40202	34,890.00
Ms. Connie Sewell Route 7, Schofield Lane Frankfort, Kentucky 40601	91.00
Clinical Service Association 402 Children's Hospital Foundation Building 601 South Floyd Street	2,783.00

Louisville, Kentucky 40202	
Northern Kentucky Community Action Commission Newport Mall, 4th & Central Newport, Kentucky 41071	2,876.30
West End Day Care Center 416 Elm Street Owensboro, Kentucky 42301	2,214.96
Surgical Assistants, Inc. Suite 310-312, 640 South Fourth Street Louisville, Kentucky 40202	83.10
S. Pearson Auerback, M.D. Doctors Office Building Suite 1003 250 East Liberty Street Louisville, Kentucky 40202	15.00
Orkin Exterminating Company, Inc. Route 8 Somerset, Kentucky 42501	105.00
Kern's Bakery London, Kentucky 40741	42.00
Midway Medical Company, Inc. 415 Samson Street Glasgow, Kentucky 42141	76.27
Ky.-Inna Turf Supply Co., Inc. P.O. Box 99174 916 Watterson Trail Louisville, Kentucky 40299	519.76
Williams Energy Company P.O. Box 395 Ludlow, Kentucky 41016	33.18
Discount Building Supply Cadiz, Kentucky 42211	85.00
Judd's 202 W. Main Street Frankfort, Kentucky 40601	735.22
Boone Gas	56.00

Fort Boone Plaza Frankfort, Kentucky 40601	
Uniroyal, Inc. %Robert & Hudson Tire Company 6808 Dixie Highway Florence, Kentucky 41042	163.03
James T. Stinnett, Ex-Sheriff Breckinridge County Hardinsburg, Kentucky 40143	836.00
Kenneth Williams, Clerk Johnson Circuit Court Paintsville, Kentucky 41240	315.67
Opaline Moore, Treasurer Gallatin County Warsaw, Kentucky 41095	425.00
Phyllis Brooks, Treasurer Morgan County West Liberty, Kentucky 41472	935.00
Phyllis Brooks, Treasurer Morgan County West Liberty, Kentucky 41472	550.00
Sid Peavley, Treasurer Whitley County Williamsburg, Kentucky 40769	2,975.00
Charles B. Farris, Treasurer Pulaski County Somerset, Kentucky 42501	2,400.00
J. T. Ward, Treasurer Letcher County Whitesburg, Kentucky 41858	2,635.00
Letcher County Treasurer Whitesburg, Kentucky 41858	1,550.00
Allen Prewitt, Jr. 311 Wilkinson Street Frankfort, Kentucky 40601	1,200.00
Lee B. Ledford, Esq.	671.03

570 Park Avenue
New York, New York 10021

The claims hereafter enumerated are for the payment of state treasury checks payable to persons or their personal representative, and the firms listed, but not presented for payment within a period of five years from the date of issuance of such checks as required by KRS 42.370 and KRS 413.120.

The Citizens National Bank
305 W. Main Street
Danville, Kentucky 40422
Check No. GO003443, dated August 9, 1967 $ 15.00

Kathryn Fortner Brady
20 Roselawn Drive
Williamstown, Kentucky 41097
Check No. GO047070, dated September 26, 1967 62.20

G. L. & K. M. Metzmeier
3621 Johnston Way
Louisville, Kentucky 40220
Check No. 133597, dated February 28, 1967 48.26

Charles A. Kaufman
%Sage, Carter & Bowers
Attorneys at Law
Suite 348, Holiday City Office Bank
200 High Rise Drive
Louisville, Kentucky 40213
Check No. 599280, dated July 13, 1967 34.47

Mrs. Luther Smith
2161 Idlesville Road
Burlington, Kentucky 41005
Check No. GO335371, dated July 31, 1968 25.30

Elsie H. Corbin
Route 2
Georgetown, Kentucky 40324
Check No. TO362897, dated June 7, 1968 12.28

M. J. & A. B. Fromille
5401 Minyard Drive
Louisville, Kentucky 40219
Check No. TO, 472,806, dated July 10, 1969 23.33

Mrs. Bess C. Webb Stuhr
20 Johnson Road
Charleston, South Carolina 29407
Check No. TO,501,672, dated July 14, 1969 4.06

Carol Tipton
Atlantis Apartments
Apartment 5-D
4110 Hale Parkway
Denver, Colo. 80220
Check No. T1,100,936, dated July 10, 1970 9.73

Albert A. & G. Nelson
312 Main Street
Benton, Kentucky 42025
Check No. TO, 555,628, dated January 15, 1970 179.07

Judy Wisdom
1819 Stevens
Louisville, Kentucky 40205
Check No. T1,104,956, dated July 10, 1970 6.58

Centenial & B. Hinkle
4224 Fordson Way
Louisville, Kentucky 40211
Check No. TO, 935,452, dated May 15, 1970 33.57

Jas. & E. K. Learnahan
9326 Roundtop Road
Cincinnati, Ohio 45239
Check No. T1,059,388, dated July 8, 1970 64.06

J. L. & J. B. Robertson
%Travis Hayes
Department of Revenue
P.O. Box 12
Bowling Green, Kentucky 42101
Check No. T1,718,392, dated June 15, 1971 78.53

Claude & E. Surber
Route 1
Eubank, Kentucky 40318
Check No. T1,763,738, dated August 17, 1971 18.38

Larry J. Grider 9011 Preston Highway Louisville, Kentucky 40219 *Check No. T1,617,961, dated May 19, 1971*	66.73
R. Keith Route 2 Mt. Sterling, Kentucky 40353 *Check No. P2,845,423, dated May 26, 1971*	10.00
R. Keith Route 2 Mt. Sterling, Kentucky 40353 *Check No. P2,718,870, dated April 26, 1971*	1.50
Ruth Vance, Admrx. Dave Vance Est. R.E. Tooms 101 Catching Building Box 520 London, Kentucky 40741 *Check No. G1,199,609, dated October 8, 1971*	186.15
Louis H. Back, Admr. Estill Henson Est. %Jerry L. Foster Attorney at Law Court Square Liberty, Kentucky 42539 *Check No. G1,650,625, dated August 30, 1972*	48.83
Martha M. Smith Route 8, Box 64 Hopkinsville, Kentucky 42240 *Check No. T2,301,913, dated May 17, 1972*	19.63
Marg. J. Belcher 5405 Sunset Drive Louisville, Kentucky 40219 *Check No. T2,422,500, dated June 20, 1972*	22.00
M. Cox Route 1, Box 117-M West Liberty, Kentucky 41472 *Check No. P4,145,640, dated June 8, 1972*	129.21

R. Mullins %Ky. Employees' Retirement System 226 W. Second Street Frankfort, Kentucky 40601 *Check No.R0,244,726, dated April 12, 1972*	30.67
Mental Health %Kentucky Employees' Retirement System 226 W. Second Street Frankfort, Kentucky 40601 *Check No. RO,244,769, dated April 12, 1972*	53.67
Ralph Pierce %Kentucky Department of Transportation State Office building Frankfort, Kentucky 40601 *Check No. G1,319,903, dated January 10, 1972*	56.00
S. M. Da Vega 1737 Liberty Road Lexington, Kentucky 40505 *Check No. 735-014, dated August 12, 1957*	3.00
Elizabeth Scoville East Bernstadt, Kentucky 40729 *Check No. 036545, dated May 23, 1955*	51.15
Dearl W. & E. E. Abbott 501 Bellevue Wilmore, Kentucky 40390 *Check No. 097533, dated June 30, 1964*	2.62
Robert N. Hood 727 Hopeful Road Florence, Kentucky 41042 *Check No. 340068, dated April 20, 1965*	1.80
Mabel M. Helm George N. Helm Estate %The Farmers Bank Woodland Mills, Tennessee 38271 *Check No. 861-185, dated March 23, 1953*	53.49

Mabel M. Helm George N. Helm Estate %The Farmers Bank Woodland Mills, Tennessee 38271 *Check No. 838-556, dated February 9, 1953*	87.76
Doris Keeton Hucaby 569 Cane Run Road Lexington, Kentucky 40505 *Check'No. 100288, dated May 31, 1962*	17.27
George W. Helton Estate %Charles D. Gable, Atty. 607 W. Ormsby Avenue Louisville, Kentucky 40203 *Check No. 699920, dated July 26, 1956*	10.96
Grace K. Rose 4903 Southern Parkway Lousiville, Kentucky 40214 *Check No. 282460, dated June 28, 1960*	21.40
D. Salyer %Chemistry Dept. Eastern Kentucky University Richmond, Kentucky 40475 *Check No. 989280, dated June 29, 1962*	1.25
Wm. H. Robinson RR 1, Box 145A McKee, Kentucky 40447 *Check No. T0,170,745, dated April 9, 1968*	11.95
P. Lafferty %University of Kentucky Payroll Dept. Lexington, Kentucky 40506 *Check No. P2,712,150, dated April 22, 1971*	23.64
Airdrie Farm %Gen Arthur Lloyd 200 Shriners Lane Lexington, Kentucky 40502 *Check No. 158482, dated August 17, 1962*	33.30

Marion T. Seay 595 West 8th Russellville, Kentucky 42276 *Check No. P1,858,303 dated August 11, 1970*	399.84

Section 2. The persons and companies named above having in good faith furnished the services, supplies, and materials enumerated in Section 1, and the Commonwealth having received the benefits of same, an emergency is declared to exist and this Act shall take effect upon its passage and approval by the Governor.

HB 694, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 137 IS CREATED TO READ AS FOLLOWS:
The intent of the General Assembly in enacting this Act is to give county governments the authority to raise monies to pay for the adverse impact of coal production on local government services and to develop an industrial substitute to maintain the economic health of local communities upon the eventual depletion of coal.

SECTION 2. A NEW SECTION OF KRS CHAPTER 137 IS CREATED TO READ AS FOLLOWS:
(1) KRS 143.100 notwithstanding, any county may impose a license or franchise tax for road, county or school purposes on the trade or occupation of coal production within the county. Such a tax shall not exceed one per cent (1%) of the gross receipts from the sale of any coal produced within the county. Recognizing that coal is frequently sold under contracts negotiated at less than arms length, for purposes of this Act gross receipts shall not be less than the fair market value of the coal when it has been altered in form sufficiently to be transported from the place of production.
(2) The fiscal court may levy this tax for county purposes, and shall determine what funds shall receive the tax when collected. When coal is produced in any separate taxing district in a county, the fiscal court shall equitably distribute such taxes between the county and the taxing district.
(3) The tax shall be imposed ratably on all persons owning an interest in the coal produced. A lessor of mineral rights having no voice in the management and operation of the coal production is not an owner for purposes of the imposition of the tax.

Calendar

HB 253, HB 567, HJR 61, SB 182, HB 329, HB 401, HB 423, HB 539, HB 621, HB 657, HCR 72, and **SB 165** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

Representative Patrick moved the adoption of the following Legislative Citation No. 17:

The House of Representatives hereby congratulates Mayor Paul Estes for his excellent initiative and implementation of programs for the improvement of Williamsburg, Kentucky. The significant leadership role that he exemplified during the devastating flood of 1977 was most creditable. He worked diligently and spent tireless hours during this great ordeal. He secured several federal grants and state assistance for rehabilitation of flood damaged homes, site acquisition for new housing and equipment replacement, and a new water facility. We applaud Mayor Estes for an outstanding accomplishment for approximately one year in office. (Sponsored by Representative Patrick)

Agreed.

Representative Hancock moved that **HB 735** be taken from the Committee on Highways and Traffic Safety and sent to the Committee on Appropriations and Revenue. Agreed.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Dietz, **HB 168;** Representative Hines, **HB 744, HB 556;** Representative Imes, **HB 705;** Representative Isler, **HB 168;** Representative Kleier, **HB 717;** Representative McKinney, **HB 690;** Representative Pearman, **HB 735;** Reperesentative Petty, **HB 168;** Representative Plummer, **HB 706;** Representative O'Brien, **HB 691, HB 705;** Representative Trevey, **HB 705.**

Recess

Representative B. Richardson moved that the House recess for ten minutes for a meeting of the Committee chairmen. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Senate Message

Announcing passage of **SB 155, SB 209.**

Motions, Petitions and Communications

Representative Brinkley moved that the rules be suspended to introduce **HR 98.** Agreed.

HR 98, by Representative Brinkley, Boatwright, DeFalaise, Clarke, and Romines: A RESOLUTION commending the Legislative Research Commission.

Representative Brinkley moved that a call of the roll be taken to show co-sponsors of **HR 98.** Agreed.

The following members voted to co-sponsor **HR 98:** Adams, Arnold, Bendl, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Carpenter, Clapp, Craddock, Crupper, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Foster, Gray, Guenthner, Guy, Head, Hines, Holloway, Imes, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McKinney, McNutt, Noe, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Tobin, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright.

Representative Brinkley moved the adoption of the following **HR 98:**

HR 98, A RESOLUTION commending the Legislative Research Commission.

WHEREAS, the deliberations of the 1978 regular session of the General Assembly of the Commonwealth of Kentucky have received conscientious, capable and outstanding assistance, above and beyond the call of duty from the staff of the Legislative Research Commission; and

WHEREAS, each member of both branches of the General Assembly has found such assistance, aid and advice available without regard to party or factional affiliation at any and all times; and

WHEREAS, the people of the Commonwealth of Kentucky have benefited substantially through improvement in the efficiency of the legislative process, from the services rendered to the General Assembly by the staff of the Legislative Research Commission; and

WHEREAS, such advice, counsel and assistance has been rendered at all times with unfailing courtesy and good humor despite the pressure of time and heavy burden of such duties;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly expresses on behalf of its own members and on behalf of the people of the Commonwealth its gratitude and appreciation to the staff of the Legislative Research Commission.

Section 2. That the General Assembly does hereby commend the staff of the Legislative Research Commission as outstanding, capable and devoted public servants.

HR 98 was adopted by voice vote.

Orders of the Day

HB 354 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the following Floor Amendment No. 2 to **HB 354:**

Amend printed copy of **HB 354,** on page 3, line 3, after the word "charges" by deleting the word "are";

and on page 3, line 4, after the word "clerk" by deleting the comma "," and adding the words "are determined by the mayor or the legislative body to be of a nature to justify the removal or the failure to reappoint a member of the police department then";

and on page 3, line 13, after the word "agreement" by adding the following sentences: "If the accused member desires to forego the hearing he may request, in writing, a waiver of the hearing and agree to accept an administrative disciplinary decision which shall be rendered within the same time limitations as provided for a hearing. Such waiver will preclude his right to a subsequent hearing on the same charges."

and on page 3, line 26, after the word "decision" by adding the following: "within fourteen (14) days of the conclusion of the hearing";

and on page 4, line 13, by deleting the words "publicly reprimanded,";

and on page 4, line 14, after the letters "pended" by adding the following: "for more than a total of thirty (30) days";

and on page 4, after line 23, by adding the following: "(8) If any member of the police department is suspended under any permissable disciplinary action the length of the suspension shall be specifically stated and the days of the suspension shall run consecutively.";

and on page 4, line 24, by deleting the number "(8)" and substituting therefor the number "(9)".

Agreed.

Representative Thomas moved that **HB 354,** as amended, be passed.

On the roll call the vote was, Yeas 73-Adams, J. Allen, W. Allen, Arnold, Bendl, Beshear, Blandford, Boatwright, Boswell, Burnette, Clapp, Clarke, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Isler, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Wright, Yates. Nays 2-Cyrus, Tobin.

HB 354, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 354,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker assumed the Chair.

HB 359 with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Substitute to **HB 359.** Agreed.

Representative J. Allen moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 359.** Agreed.

Representative B. Richardson moved that **HB 359,** by way of Committee Substitute as amended, be passed.

On the roll call the vote was, Yeas 86-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Imes, Isler, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright. Nays 0.

HB 359, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 359,** by way of Committee Substitute as amended, was passed be reconsidered and said motion postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 68, SB 117,** and **HB 90** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 282 and **HJR 5** delivered to the Senate, signed by President, ordered delivered to the Governor.

Orders of the Day (continued)

Representative B. Richardson moved that consideration of **HJR 13** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 251, as amended by Committee Amendment No. 1, taken from Orders of the Day. Representative B. Richardson moved that it be placed upon its passage. Agreed by a majority of member elected.

Representative Burch moved that **HB 251,** as amended, be passed.

On the roll call the vote was, Yeas 32-Benson, Brinkley, Burch, Carpenter, Cyrus, Davenport, Dawahare, Deskins, Dietz, Foster, Head, Holbrook, Jones, Kleier, Layman, Little, McNutt, O'Brien, Pearman,Priddy, Rattliff, Riner, Robinson, Romines, Sale, Stone, Thomas, Tobin, Weinberg, Wilborn, Williams, Worthington. Nays 37-Adams, J. Allen, W. Allen, Bennett, Beshear, Boatwright, Brown, Burnette, Clapp, Clarke, Crupper, DeMarcus, Donnermeyer, Dunn, Gay, Gray, Guy, Holloway, Isler, Johnson, Kenton, Lindsay, Mann, Marcum, Overstreet, Patrick, Petty, Plummer, Richards, B. Richardson, P. Richardson, Schmidt, F. Smith, R. Smith, Trevey, Van Horn, Wright.

HB 251, as amended, was defeated.

Representative Burch moved that the vote by which **HB 251,** as amended, was defeated be reconsidered and said motion be postponed indefinitely. Agreed.

HB 266 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 266** be passed.

On the roll call the vote was, Yeas 80-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalasie, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Lindsay, List, Mann, Marcum, May, McBee, McNutt, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, Siemens, R. Smith, Stone, Thomas, Trevey, Truner, Van H orn, Weinberg, White, Wilborn, Williams, Wright, Yates. Nays 0.

HB 266 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 266** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 93** and **HB 547** be deferred and that they retain their position in Orders of the Day. Agreed.

HB 188 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adams moved that **HB 188** be passed.

On the roll call the vote was, Yeas 76-Adams, J. Allen, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Head, Hines, Hurst, Isler, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, May, McBee, McKinney, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 6-W. Allen, Burch, Holbrook, Layman, Plummer, Tobin.

HB 188 was passed and the title agreed to.

Representative Adams moved that the vote by which **HB 188** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 217, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 217.** Agreed.

Representative Bendl moved that **HB 217** by way of Committee Substitute, be passed.

On the roll call the vote was, Yeas 90-Adams, J Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 217, by way of Committee Substitute, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 217,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 283, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Amendment No. 1 to **HB 283.** Agreed.

Representative Richards moved that **HB 283,** as amended, be passed.

On the roll call the vote was, Yeas 81-Adams. J. Allen, W. Allen, Arnold, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Hancock, Head, Hines, Holbrook,Holloway, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McBee, McKinney, McNutt, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 9-Blythe, Clarke, DeFalaise, Fitzgerald, Guenthner, Haering, Jones, Kenton, Patrick.

HB 283, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 283,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 399 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 399** be passed.

On the roll call the vote was,Yeas 68-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Clapp, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Imes, Isler, Kenton, Kleier, Layman, Little, Mann, Marcum, May, McKinney, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, Stewart, Stone, Thomas, Tobin, Van Horn, Williams, Wright, Yates. Nays 5-Clarke, Jones Schmidt, Trevey, Wilborn.

HB 399 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 399** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 407 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 407** be passed.

On the roll call the vote was, Yeas 74-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Boatwright, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Imes,Isler, Johnson, Jones,Kenton, Kidd, Kleier, LeMaster, List, Little, Marcum, May, McBee, McNutt, Nett, Noe, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Sale, Schmidt, Siemens, R. Smith, Stone, Tobin, Trevey, Van Horn Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 10-W. Allen, DeMarcus, Hearing, Hurst, Layman, Lindsay, Patrick, Rattliff, Riner, Thomas.

HB 407 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 407** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 411, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeFalaise moved the adoption of the Committee Amendment No. 1 to **HB 411.** Agreed.

Representative DeFalaise moved that the vote by which **HB 411,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

On the roll call the vote waas, yeas 74-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Burch, Carpenter, Clapp, Clarke, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 8-Brinkley, Bruce, Crupper, DeMarcus, Imes, Morris, Noe, Weinberg.

HB 411, as amended, was passed and the title agreed to.

Representative DeFalaise moved that the vote by which **HB 411,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 480 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Davenport moved the adoption of the Committee Amendment No. 1 to **HB 480.** Agreed.

Representative Davenport moved that **HB 480,** as amended, be passed.

On the roll call the vote was, yeas 46-Adams, W. Allen, Bendl, Bennett, Blythe, Brinkley, Brown, Bruce, Burch, Burnette, Crupper, Davenport, DeFalaise, DeMarcus, Foster, Gay, Haering, Hancock, Head, Holbrook, Holloway, Layman, Marcum, May, McKinney, Morris, Nett, Overstreet, Patrick, Pearman, Plummer, Priddy, Rattliff, Riner, Robinson, Romines, Sale, Schmidt, Stone, Tobin, Trevey, Van Horn, Weinberg, White, Worthington, Yates. Nays 50-J. Allen, Arnold, Benson, Beshear, Blandford, Boatwright, Boswell, Clarke, Craddock, Cyrus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Hines, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, McBee, McNutt, Noe, O'Brien, Petty, Richards, B. Richardson, P. Richardson, Siemens, F. Smith, R. Smith, Stewart, Thomas, Turner, Wells, Wilborn, Williams, Wright.

HB 480, as amended, was defeated.

HB 496 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved that the vote by which **HB 496** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 552 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

The Chair ruled that the Floor Amendments filed to **HB 552** which created new judgeships were unconstitutional.

Representative B. Richardson and Guy appealed the ruling of the Chair.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

On the roll call the vote was yeas 77-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Carpenter, Clarke, Craddock, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holloway, Isler,Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, McBee, McKinney, McNutt, Morris, Nett, Noe O'Brien, Overstreet, Patrick, Pearman, Petty, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, White, Williams, Worthington, Wright, Yates. Nays 10-W. Allen, Brown, Fitzgerald, Guenthner, Imes, Layman, Lindsay, Plummer, Weinberg, Wilborn.

HB 496 was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 496** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 552 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

The Chair ruled that the Floor Amendments filed to **HB 552** which created new judgeships were unconstitutional.

Representatives B. Richardson and Guy appealed the ruling of the Chair.

The Speaker vacated the Chair.

The Speaker Pro Tempore Clapp presiding.

On the roll call the vote was yeas 73-J. Allen, W. Allen, Arnold, Bennett, Blandford, Blythe, Boatwright, Brinkley, Brown, Bruce, Burch, Carpenter, Clapp, Craddock, Davenport, Dawhare, Defalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Isler, Johnson, Kidd, Layman, LeMaster, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, F. Smith. R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 13-Adams, Boswell, Burnette, Clarke, Crupper, Deskins, Fitzgerald, Gray, Hancock, Hurst, Imes, Jones, Lindsay.

The ruling of the Chair was upheld.

The Speaker resumed the Chair.

Representative Robinson moved that **HB 552** be passed.

Representative Jones moved that **HB 552** be laid on the Clerk's desk.

On the roll call the vote was yeas 15-Adams, Bendl, Clarke, Crupper, Deskins, Hancock, Hines, Jones, Kenton, Lindsay, Mann, Petty, Richards, P. Richardson, F. Smith. Nays 67-J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Blythe, Boatwright, Brown, Bruce, Burnette, Carpenter, Clapp, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dunn, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kidd, Kleier, Layman, List, Little, Marcum, May, McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Pearman, Plummer, Rattliff, B. Richardson, Riner, Robinson, Romines, Sale, Schmidt, R. Smith, Stewart, Stone, Thomas, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates.

The motion that **HB 552** be laid on the Clerk's desk was rejected.

Representative Imes moved the reading of the following Floor Amendment No. 2 to **HB 552.**

Amend printed copy of **HB 552** page 2, line 7, by adding the following: "Section 2. This Act shall become effective on the date that the Supreme Court issues a certificate of necessity to increase by one (1) the number of district judges in the 42nd judicial district and the general assembly establishes the position."

The Chair ruled Floor Amendment No. 2 to **HB 552** was in order.

Representative Imes moved the adoption of the Floor Amendment No. 2 to **HB 552.**

Representative Imes moved the adoption of the Floor Amendment No. 2 to **HB 552.**

On the roll call the vote was yeas 12-Adams, Bruce, Burnette, Clarke, Deskins, Gray, Hurst, Imes, Jones, Lindsay, Richards, F. Smith. Nays 64-J. Allen, W. Allen, Arnold, Beshear, Blandford, Blythe, Boatwright, Brown, Burch, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Head, Holbrook, Holloway, Isler, Johnson, Kidd, Kleier, Layman, LeMaster, List, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, B. Richardson, Riner, Robinson, Romines, Sale, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Wiliams, Wright, Yates.

The Floor Amendment No. 2 to **HB 552** was rejected.

Representative Adams moved the reading of the following Floor Amendment No. 6 to **HB 552:**

Amend printed copy of **HB 552,** page 2, line 7, by adding the following: "Section 2. This Act shall become effective on the date that the Supreme Court issues a certificate of necessity to increase by one (1) the number of district judges in the 8th judicial district and the general assembly establishes the position."

The Chair ruled Floor Amendment No. 6 to **HB 552** was in order.

Representative Adams moved the adoption of the Floor Amendment No. 6 to **HB 552.**

On the roll call the vote was yeas 12-Adams, Bendl, Clarke, Deskins, Guy, Hancock, Hurst, Imes, Jones, May, Richards, F. Smith. Nays 63-J. Allen, W. Allen, Arnold, Beshear, Blandford, Blythe, Boatwright, Brinkley, Brown, Burch, Carpenter, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Haering, Head, Holbrook, Holloway, Isler, Johnson, Kidd, Layman, LeMaster, List, Marcum, McKinney, McNutt, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, B. Richardson, Riner, Robinson, Romines, Sale, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, White, Williams, Wright, Yates.

The Floor Amendment No. 6 to **HB 552** was rejected.

Representative Boatwright moved the adoption of the Previous Question on **HB 552.**

On the roll call the vote was yeas 60-J. Allen, Arnold, Blandford, Boatwright, Boswell, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Dunn, Foster, Gay, Gray, Guenthner, Hancock, Head, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman,LeMaster, List, Little, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Riner, Romines, Sale, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Weinberg, White, Wilborn, Wiliams, Yates. Nays 20-Adams, W. Allen, Bendl, Bennett, Brinkley, Brown, Bruce, Burch, Deskins, Fitzgerald, Haering, Holbrook, Hurst, Jones, Lindsay, Morris, Richards, Schmidt, F. Smith, Van Horn.

The motion that the Previous Question be adopted on **HB 552** was adopted.

Representative Robinson moved that **HB 552** be passed.

On the roll call the vote was yeas 83-J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Dunn, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Layman, LeMaster, List, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, White, Williams, Worthington, Wright, Yates. Nays 10-Adams, Clarke, Cyrus, Deskins, Fitzgerald, Gray, Hurst, Jones, Lindsay, Richards.

HB 552 was passed and the title agreed to.

Representative Robinson moved that the vote by which **HB 552** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 58** has been examined and found correctly enrolled. **SB 58** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

Representative B. Richardson moved that **HB 332** be recommitted to the Committee in Banking and Insurance. Agreed.

SB 64 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 70-Adams, W. Allen, Arnold, Blandford, Blythe, Boswell, Brinkley, Brown, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Isler, Johnson, Jones, Kidd, Kleier, Layman, Lindsay, Little, Mann, May, McBee, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Petty, Plummer, Priddy, Ratliff, Richards, P. Richardson, Romines, Sale, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Van Horn, Weinberg, Wilborn, Williams, Wright, Yates. Nays 8-DeFalaise, Guenthner, Imes, LeMaster, List, Pearman, Schmidt, Trevey.

SB 64 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 64** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 74 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 89-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Williams, Wright, Yates. Nays 0.

SB 74 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 74** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 79, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to **SB 79**.

On the roll call the vote was yeas 72-J. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Imes, Isler, Jones, Kenton, Kidd, Layman, LeMaster, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Wells, White, Wilborn, Williams, Worthington, Wright. Nays 0.

The Committee Amendment No. 1 to **SB 79** was adopted.

Representative Gray moved the adoption of the following Floor Amendment No. 1 to **HB 79:**

Amend printed copy of Committee Amendment No. 1 to Senate Bill 79, page 1, on the next to last line, by inserting, after "Kentucky" and before "for", the phrase: ", or an adjoining state in which TVA operates,".

Agreed.

Representative Bruce moved that **SB 79,** as amended, be passed.

On the roll call the vote was yeas 69-J. Allen, Arnold, Bendl, Benson, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Cruper, Cyrus, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Foster, Gray, Guenthner, Guy, Hancock, Head, Holbrook, Holloway, Hurst, Imes,Isler, Johnson, Kenton, Kidd, LeMaster, List, Little, Mann, May, McKinney, McNutt, Morris, Nett, O'Brien, Patrick, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 17-W. Allen, Bennett, Beshear, Davenport, DeMarcus, Dunn, Gay, Haering, Layman, Lindsay, Marcum, Overstreet, Pearman, Plummer, R. Smith, Trevey, Van Horn.

SB 79, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 79,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 181 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilborn moved that **SB 181** be passed.

On the roll call the vote was yeas 76-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Burch, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 9-W. Allen, Bruce, Burnette, DeFalaise, Deskins, Gray, Marcum, Trevey, Van Horn.

SB 181 was passed and the title agreed to.

Representative Wilborn moved that the vote by which **SB 181** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 33 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Robinson moved the adoption of the following Floor Amendment No. 1 to **SB 33:**

Amend printed copy of Senate Bill 33, page 1, by adding after line 18 the following:

"Section 2. KRS 424.260 is amended to read as follows:

Except where a statute specifically fixes a larger sum as the minimum for a requirement of advertisement for bids, no city, county, or district, or board or commission of a city or county, may make a contract, lease, or other agreement for materials, supplies or equipment, or for contractual services other then professional *or perishable school food service items*, involving an expenditure of more than *five thousand dollars ($5,000)* [two thousand five hundred dollars ($2,500)] without first making newspaper advertisement for bids. Provided, however, that this requirement shall not apply in an emergency if the chief executive officer of such city, county or district has duly certified that an emergency exists, and has filed a copy of such certificate with the chief financial officer of such city, county, or district."

Rejected.

Representative Richards moved that **SB 33** be passed.

Representative Lindsay moved that **SB 33** be laid on the Clerk's desk.

Representative Donnermeyer moved that **SB 33** be laid on the table.

On the roll call the vote was yeas 13-W. Allen, Burch, Crupper, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Gray, Haering, Holbrook, Overstreet, Weinberg. Nays 55-Adams, J. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boswell, Brown, Burnette, Carpenter, Clarke, Craddock, Davenport, DeFalaise, Dunn, Foster, Guy, Hancock, Hines, Holloway, Isler, Johnson, Jones, Kidd, Kleier, Layman, Lindsay, List, Little, Marcum, McNutt, Morris, Nett, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Siemens, R. Smith, Tobin, Trevey, Van Horn, Wilborn, Williams, Worthington, Wright, Yates.

The motion that **SB 33** be laid on the table was rejected.

On the roll call the vote was yeas 21-Blandford, Blythe, Clarke, Davenport, DeMarcus, Donnermeyer, Gray, Haering, Jones, Kleier, LeMaster, Lindsay, Morris, Nett, Pearman, Petty, Rattliff, Riner, Siemens, R. Smith, Wilborn. Nays 58-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Deskins, Dunn, Fitzgerald, Foster, Guenthner, Guy, Hancock, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Layman, List, Little, Mann, Marcum, McKinney, McNutt, Overstreet, Patrick, Plummer, Richards, B. Richardson, P. Richardson, Robinson, Romines, Sale, Schmidt, F. Smith, Stone, Tobin, Van Horn, Williams, Worthington, Wright, Yates.

The motion that **SB 33** be laid on the Clerk's desk was rejected.

Representative Richards moved that **SB 33** be passed.

Representative Schmidt moved that the vote by which Floor Amendment No. 1 to **SB 33** was rejected be reconsidered.

On the roll call the vote was yeas 26-J. Allen, Bennett, Blandford, Blythe, Boswell, Brown, Crupper, Davenport, Dawahare, Guenthner, Haering, Head, Imes, Johnson, Kenton, Layman, May, Noe, Pearman, Rattliff, Riner, Robinson, Romines, Schmidt, Stone, Trevey. Nays 57-Adams, W. Allen, Arnold, Bendl, Benson, Boatwright, Brinkley, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Cyrus, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Hancock, Hines, Holbrook, Isler, Kidd, Kleier, Lindsay, List, Little, Mann, Marcum, McNutt, Morris, Nett, Overstreet, Petty, Richards, B. Richardson, P. Richardson, Sale, Siemens, F. Smith, R. Smith, Thomas, Tobin, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates.

The motion that the vote by which Floor Amendment No. 1 to **SB 33** was rejected be reconsidered was rejected.

On the roll call the vote was yeas 76-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, Dietz, Dunn, Fitzgerald, Foster, Guy, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Marcum, May, McNutt, Nett, Noe, O'Brien, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wells, Wilborn, Wiliams, Worthington, Wright, Yates. Nays 13-W. Allen, Davenport, DeFalaise, DeMarcus, Deskins, Donnermeyer, Gray, Guenthner, Haering, Little, Overstreet, Pearman, Rattliff.

SB 33 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 33** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative B. Richardson moved tht the rules be suspended for Introduction of Bills and Resolutions, Reference of Bills and Resolutions, and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 750, by Representative Bendl: AN ACT relating to the prevention and treatment of domestic violence and making an appropriation therefor.

HB 751, by Representative Thomas: AN ACT relating to public highways.

HB 752, by Representatives Kenton, DeMarcus, Hancock, Kleier, Benson, Blandford, Clapp, Clarke, DeMarcus, Donnermeyer, Dunn, Imes, Mann, McBee, B. Richardson, Wells, LeMaster, Rattliff and Richards: AN ACT proposing to amend the Constitution of Kentucky relating to the General Assembly.

HB 753, by Representative Benson: AN ACT relating to governmental projects.

HB 754, by Representative Benson: AN ACT relating to the allotment of classroom units.

HB 755, by Representative Siemens: AN ACT relating to exceptions for open meetings.

HB 756, by Representative Gay: AN ACT relating to debt collecting expenses.

HB 757, by Representatives Hancock and P. Richardson: AN ACT relating to the escrow of securities with the director of the division of securities.

HB 758, by Representative Kleier: AN ACT relating to glue.

HB759, by Representative Deskins: AN ACT relating to workmen's compensation.

HR 95, by Representative Beshear: A RESOLUTION in support of the national Bill of Rights for Foster Children.

HJR 96, by Representatives Blandford, Boswell and Johnson: A JOINT RESOLUTION creating a task force on the multiply physically handicapped and making an appropriation therefor.

HR 97, by Representative Noe: A RESOLUTION regarding flood alleviation.

HCR 99, by Representatives B. Richardson, Wells, Kenton, Donnermeyer and Clapp: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the feasibility of eliminating local property taxes in the financing of elementary and secondary education in the Commonwealth.

HCR 100, by Representatives Kleier, Bendl, McNutt, Adams, Benson, Brinkley, Bruce, Burnette, Carpenter, Haering, Layman, Overstreet, Priddy, P. Richardson, Riner, Sale and Trevey: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the need for the establishment of an office of ombudsman for the adult handicapped and developmentally disabled.

HCR 101, by Representative Kleier and Burch: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the availability and accessibility of dental health care to all Kentuckians.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bill:

Elections and Constitutional Amendments: **HB 752.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 718, HB 17, HB 339, HB 272, HB 735.**

Cities: **SB 249.** Withdrawn from Cities: **HB 74, HB 237.**

Counties and Special Districts: **HB 342, SB 287, SB 206.**

Judiciary-Statutes: **HB 607, HB 698, SB 146.**

Business Organizations and Professions: **HB 633, HB 711.**

Agriculture and Natural Resources: **SB 158, SB 185, HB 613, HB 696, SB 175.**

Public Utilities and Transportation: **HB 394, SB 186.**

Banking and Insurance: **SB 232.**

Health and Welfare: **HB 707.**

State Government: **HCR 88, HB 741, HCR 94, HB 697, SB 163, HB 545, HB 542.**

Elections and Constitutional Amendments: **HB 752.**

Announcements (continued)

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 87** by Representative Holbrook.

Floor Amendment No. 1 to **HB 264** by Representative O'Brien.

Floor Amendment No. 9 to **HB 332** by Representative Little.

Floor Amendment No. 1 to **HB 356** by Representative B. Richardson.

Floor Amendment No. 2 to Committee Substitute to **HB 87** by Representatives Holbrook and Cyrus.

Floor Amendment No. 2 to **HB 356** by Representative B. Richardson.

Floor Amendment No. 5 to **HB 405** by Representative Wilborn.

Floor Amendment No. 1 to **HB 491** by Representative Deskins.

Floor Amendment No. 8 to **HB 552** by Representative P. Richardson.

Floor Amendment No. 9 to **HB 552** by Representative Crupper.

Floor Amendment No. 1 to **HB 602** by Representative Siemens.

Floor Amendment No. 1 to **SB 60** by Representative Weinberg.

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Wednesday, March 1, 1978.

On the roll call the vote was yeas 21-Arnold, Boswell, Clapp, Cyrus, Donnermeyer, Hines, Isler, Johnson, Kenton, Kidd, Kleier, Layman, Mann, Pearman, Petty, Priddy, Rattliff, Romines, Schmidt, Stone, Thomas. Nays 7-Gray, Guenthner, Holbrook, Holloway, Imes, P. Richardson, Van Horn.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 1,1978

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Rabbi William J. Leffler, Temple Adath Israel, Lexington, Kentucky.

The roll was called. All present except Representative Maynard.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of February 28, 1978, be dispensed with and the same approved. Agreed.

Introductions of Bills and Resolutions

HCR 102, by Representatives B. Richardson, Richards and Adams: A CONCURRENT RESOLUTION directing a study of the retirement systems for state officers serving the Court of Justice.

HCR 103, by Representatives Burch and Yates: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the need for denturists in the Commonwealth of Kentucky.

Senate Message

Announcing passage of **SB 179, SB 254, SB 259, SB 288, SB 293, SB 305, SB 316, HB 46** with Amendment, and **HB 137** with Amendment.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Natural Resources: **HR 97.**

Appropriations and Revenue: **HCR 99.**

Banking and Insurance: **HB 757.**

Business Organizations and Professions: **SB 209, SB 88.**

Cities: **HB 748, HB 753.**

Counties and Special Districts: **HB 747.**

Education: **HB 754, SB 155.**

Health and Welfare: **HB 758, HJR 96, HCR 100, HCR 101.**

Judiciary-Statutes: **HB 749, HB 750, HB 756, HR 95.**

Labor and Industry: **HB 759.**

State Government: **HB 751, HB 755.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HB 745, HB 731.**

State Government: **HB 214, SB 113, SB 222.**

Elections and Constitutional Amendments: **HB 73, HB 96, HB 97, HB 120, HB 123, HB 149, HB 163, HB 174, HB 274, HB 200, HB 315, HB 386, HB 387, HB 654.**

Report of Committees

The Committee on Rules reported **HB 534, HB 540, HB 549, HB 563, HB 80, HB 531, HB 253, HB 329, HB 401, HB 423, HB 539, HB 567, HB 621, HJR 61, HCR 72, SB 35, SB 165,** and **SB 182** have been posted for passage in Orders of the Day, March 2, 1978.

The Committee on Rules reported **HB 268** has been recommitted to the Committee on Judiciary-Statutes.

The Committee on Education reported **HB 76** with Committee Amendment attached thereto, **HB 576** with Committee Amendment attached thereto, **HB 579** with Committee Amendments attached thereto, **HB 626, HB 638,** and **SB 198** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76, AN ACT relating to parenthood and human growth and development education and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department of education shall administer the provisions of this Act, pursuant to regulations adopted by the state board of education. In administering this Act, the department of education shall take into consideration the advice and counsel of the superintendent of public instruction and the secretary for human resources, or their designated representatives, and any other representative of a related agency or body deemed appropriate by the state board of education, including, but not limited to, parents representing parent-teacher organizations, representatives of professional educators, and professionals in the areas of family life and human growth and development.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Instruction in parenthood and human growth and development education shall be conducted in the elementary and secondary schools in conjunction with courses in any appropriate area of study.

(2) Parenthood and human growth and development education shall be sequential in nature and suited to meet the needs of the students at their respective grade levels.

(3) An elective course in parenthood and human growth and development shall be offered in all high schools in the state.

(4) The state textbook commission shall include in its criteria for selection of textbooks in science, health, social studies, home economics, and other appropriate textbooks, concepts related to parenthood and human growth and development.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department of education shall develop a comprehensive statewide program in parenthood and human growth and development education by assuming the following functions:

(1) Assist in the development and dissemination of model curricula in parenthood and human growth and development;

(2) Assist in the identification and development of innovative teaching methods for the instruction of parenthood and human growth and development education in the public schools;

(3) Develop methods of evaluating the effectiveness of instruction in parenthood and human growth and development education;

(4) Assist local school districts in conducting teacher in-service education programs on parenthood and human growth and development;

(5) Assist teacher education institutions in the development of courses relating to instruction in parenthood and human growth and development education at the elementary and secondary school levels.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
The governing board of each local school district shall adopt a policy regarding parenthood and human growth and development education by resolution in accordance with the guidelines and regulations approved by the state board of education, and consistent with the provisions of this Act, specifying among other things, the curriculum or program to be utilized in parenthood and human growth and development education, provisions for teacher in-service education, assistance to teachers in implementation of programs in parenthood and human growth and development and the procedures by which parents, community members, and others may provide input to the program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
To assure effective implementation of this Act the department of education shall no later than six (6) months after the effective date of this Act develop and submit to the governor, the legislative research commission, and the state board of education a comprehensive plan for including parenthood and human growth and development education in the elementary and secondary curriculum. Such plan shall include, but not be limited to, the curriculum areas involved in the program, the method by which the program is to be presented in the public schools, procedures for development of model curricula, procedures for eliciting the cooperation of other related agencies and professional personnel in curriculum development, and the criteria to be used by the state textbook commission in selecting textbooks in the designated curriculum areas.

Section 6. To carry out the purposes of this Act, there is appropriated to the state department of education out of the general fund in the state treasury the sum of $200,000 for the 1978-79 fiscal year. Any balance remaining at the close of fiscal year 1978-79 shall not lapse but shall continue into fiscal year 1979-80.

The Committee Amendment to **HB 76** is as follows:

Amend printed copy of **HB 76,** line 8 in Section 2, subsection (3), page 2, deleting the word [shall] and substituting *may.*

HB 576, AN ACT relating to public education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
It is the intention of the general assembly in enacting this legislation to provide experimental programs of instruction for gifted and talented students in the division of program development, bureau of instruction of the department of education.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
As used in this Act unless the context otherwise requires; "Gifted and talented children" means those children identified as being capable of high performance to include those who have demonstrated achievement or potential ability in any of the following areas singly or in combination:
(1) Intellectual ability;
(2) Specific academic aptitude;
(3) Creative or productive thinking;
(4) Leadership ability;
(5) Visual and performing arts; and
(6) Psychomotor ability.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
(1) It is the intent of the general assembly in enacting this legislation to permit the state board for elementary and secondary education, upon recommendation of the superintendent of public instruction, to authorize a local board of education to submit applications to operate an experimental program for gifted and talented students. The objective is to encourage experimentation that may result in quality programs for gifted students and a more efficient use of educational resources.

(2) The state board for elementary and secondary education, upon recommendation of the superintendent of public instruction, shall adopt regulations relating to requirements to be met by local school districts when applying for funds to operate an experimental gifted students project.

(3) The state board for elementary and secondary education, upon recommendation by the superintendent of public instruction, shall determine annually which of the applications submitted shall be funded for the following year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
Any school district approved for an experimental gifted students program shall be reimbursed by the state department of education out of funds appropriated in the amount up to that approved by the state board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
(1) No later than ninety (90) days after the end of the fiscal year in which a project was approved and operated, the local school district shall make a progress report to the state board for elementary and secondary education. The state superintendent of public instruction shall make, through costs benefit, an effectiveness analysis and evaluation of all gifted and talented experimental programs operating under the provisions of this Act.

(2) The state department of education, with approval of the state board for elementary and secondary education, shall supply the following information for the legislative research commission, governor and the next regular session of the general assembly:
(a) A definition for the talented and gifted child appropriate for Kentucky;
(b) A system of evaluation and reporting;
(c) Information which demonstrates effectiveness of the program; and
(d) A ten (10) year plan for implementing a state-wide program for talented and gifted children.

The Committee Amendment to **HB 576** is as follows:

Amend printed copy of **HB 576,** page 3, line 21, delete "evaluation and" insert after reporting "including a breakdown of programs instituted under this Act by county and congressional district;"

line 22, delete "demonstrates" and substitute "evaluates"

HB 579, AN ACT relating to educational improvement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
This Act shall be known as "The Educational Improvement Act of 1978."

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
As used in this Act, unless the context otherwise requires:
(1) "Department" means the state department of education;
(2) "Competencies" means the possession of skills, knowledge and understandings to the degree they can be demonstrated or measured;
(3) "Basic skills" means reading, writing, spelling, language arts, mathematics, and the development of learning skills;
(4) "Product goals" means expected student outcomes as approved by the state board for elementary and secondary education;
(5) "Process goals" means systematic and orderly procedures to be followed in achieving product goals.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
It is the intention of the general assembly in enacting this legislation to assure the right of each student in the public schools of this state to acquire the basic knowledge and learning skills essential for completing high school, pursuing a course of study in post secondary education, or entering the work force in our society. It is further the intention of the general assembly to assure each student in the public schools access to those programs and services appropriate to his educational needs in the areas of basic academic and learning skills development.

SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:
The department of education shall administer the provisions of this Act pursuant to regulations adopted by the state board for elementary and secondary education upon recommendation of the superintendent of public instruction.

SECTION 5. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

There shall be appointed by the governor a state advisory committee for educational improvement in accordance with the following:

(1) The state advisory committee for educational improvement shall be eighteen (18) members broadly representative of citizens, parents, teachers and administrators. Their principal duties shall be to advise the governor and department in the implementation of the provisions of this Act.

(2) All members shall be voting members appointed by the governor and shall serve terms of four (4) years, except that the original appointments will be made as follows:

(a) Five (5) members for four (4) year terms;

(b) Five (5) members for three (3) year terms;

(c) Four (4) members for two (2) year terms; and

(d) Four (4) members for a one (1) year term.

(3) The state advisory committee for educational improvement shall elect a chairman annually from its membership;

(4) The members shall be remunerated for actual and necessary expenses incurred while attending meetings of the state advisory committee for educational improvement or while serving in the capacity as representative of the state advisory committee for educational improvement.

(5) The state advisory committee for educational improvement shall meet at least three (3) times each year at such times and places as it determines by resolution.

SECTION 6. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades 3, 5, 7 and 10 and other product goal areas as determined by the state board for elementary and secondary education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually beginning in 1978-79;

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and be made available to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board for elementary and secondary education, and local boards of education;

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans.

SECTION 7. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department shall assume the following functions in implementing the educational improvement act:

(1) The department shall, in 1978-79, purchase or cause to be developed tests appropriate to the Commonwealth of Kentucky for measuring student progress and achievement in the basic skills in grades 3, 5, 7 and 10. These tests shall be reviewed annually for appropriateness and shall be modified or revised as is necessary.

(2) The department shall, in 1978-79, purchase or cause to be developed tests appropriate to 10th grade students in Kentucky for measuring proficiency in other product goal areas as determined by the state board for elementary and secondary education upon recommendation of the superintendent of public instruction. These tests shall be reviewed annually for appropriateness and shall be modified or revised as is necessary.

(3) The department shall cause to be administered annually, beginning in the 1978-79 school year, all tests specified in subsections (1) and (2) of this section above to all students in grades 3, 5, 7 and 10 in all of the public schools of the state;

(4) The department shall score or cause to be scored all tests specified in subsections (1) and (2) of this section, compile results for each local school district, and return these results to the appropriate district by August 1 of each year;

(5) The department shall, upon the request of a local school district, provide assistance in interpreting test results;

(6) The department shall, upon request of a local school district, provide technical assistance in the area of program development;

(7) The department shall review and approve local plans for educational improvement consistent with guidelines approved by the state board for elementary and secondary education; and

(8) The department of education shall annually review both state process and product goals and modify when appropriate.

SECTION 8. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Each local school district in the state shall assume the following responsibilities and functions in implementing the provisions of this Act:

(1) Each local school district shall develop in the 1978-79 school year an educational improvement plan. In developing these plans, local districts shall involve local citizens, parents, students, teachers, and administrators through hearings held at each school level;

(2) Each local district board of education shall by October 1, beginning in 1979 and annually thereafter, submit to the state department of education for approval a local plan for educational improvement;

(3) Local school personnel shall ascertain areas of strength and weaknesses in the school program as revealed by the test results and with the advice and counsel of the representatives mentioned in subsection (1) of this section above, shall develop appropriate programs of remediation for grades 4, 6, 8 and 11. These programs of remediation shall be implemented at the beginning of the 1979-80 school year and shall continue into grades 5, 7, 9 and 12 during the 1980-81 school year. These programs of remediation shall be continuous thereafter and shall be reviewed and updated annually;

(4) The educational improvement plan developed and submitted by each local school district to the department shall include the following:

(a) Process goals for educational improvement. These shall be developed under the provisions of subsection (1) of this section above;

(b) Product goals applicable to the local school district. These may be the product goals adopted by the state board for elementary and secondary education or some adaptation consistent with them;

(c) A list of individuals, by occupation, or groups involved in developing the plan;

(d) The areas of weaknesses as revealed by the district assessment results;

(e) A list of priorities for program implementation;

(f) The objectives and activities deemed appropriate and necessary for alleviating the observed educational weaknesses;

(g) A calendar of events, or timeline, for implementation;

(h) A brief report, each succeeding year after submission of the initial plan, of progress made in overcoming observed weaknesses.

SECTION 9. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The department shall upon request assist local school districts in promoting inservice education.

SECTION 10. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

To assure effective implementation of this Act, the department shall, upon passage, develop and submit to the governor, the state advisory committee for educational improvement, the legislative research commission, and the state board for elementary and secondary education a comprehensive plan for achieving the priorities and programs set forth in Sections 6, 7 and 8 of this Act. Such plan shall include, but not be limited to, the specific responsibilities assigned to the department and local school districts; procedures for involving the state advisory committee for educational improvement; means of utilizing guidance and counseling personnel; and implementation processes and schedules.

The Committee Amendment No. 1 to **HB 579** is as follows:

Amend printed copy of **HB 579,** page 7, on lines 2-3, delete the words "of remediation" and substitute the words "to address educational weaknesses".

on lines 3-4, delete the words "of remediation".

on line 7, delete the words "of remediation".

The Committee Amendment No. 2 to **HB 579** is as follows:

Amend printed copy of **HB 579,** page 4, line 19, bracket "and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal".

HB 626, AN ACT relating to the Teachers' Retirement System of the State of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.710:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.710 for payment of allowances to teachers.

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service.

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability.

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts, 1938 (1st ex.sess.), ch. 1, paragraph 49, and any regular or special teacher, supervisor or administrator occupying a position requiring certification by the state department of education or a professional level of training, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, *Kentucky vocational association,* Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions *including any overmatch that is specified under KRS 161.550* [as required herein]. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st ex.sess.), ch. 1, on the date of the inauguration of the system or within one year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4).

(6) "New teacher" means any teacher not a present teacher.

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty years' prior service shall be allowed or credited to any teacher.

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941.

(9) "Final average salary" means the average of the five highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or the average of the five years of highest salaries as defined in KRS 61.680(2)(a).

(10) "Annual compensation" means the contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions.

(11) "Age of *member* [retirement]" means the age attained *on the first day of the month immediately following birthdate of member. This definition is limited to retirement eligibility and does not apply to tenure of members* [as of July 1 of the fiscal year in which retirement is to be effective].

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28.

(13) "Regular interest" means interest at three percent per annum.

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity plus accrued regular interest.

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance.

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky.

(17) "Fiscal year" means the twelve-month period from July 1 to June 30.

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section.

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half of the support from the member for maintenance, including board, lodging, medical care and like costs.

[(20) "Last earned annual compensation" means the gross compensation before any deduction earned by the member for the last full payroll period, multiplied by the number of payroll periods in the member's contract year.]

(20) [(21)] "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year.

(21) [(22)] "Regular teacher, supervisor, or administrator", when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the conference of actuaries in public practice or a member of the American academy of actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each *six (6)* [ten (10)] year period after the first year of operation of the system the actuary shall make an actuarial investigation into the mortality, earnable interest and service and compensation of the members and beneficiaries of the retirement system, make a valuation of the assets and liabilities of the funds of the system and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system.

(2) Actuarial factors in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees.

Section 3. KRS 161.420 is amended to read as follows:

All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four per cent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system.

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability.

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund together with regular interest assigned by the board of trustees from the guarantee fund. At time of retirement of a member by reason of service or disability there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance.

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances.

(5) The survivor, death and medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.520, 161.525, 161.655 and 161.675. One and one-quarter

percent (1.25%) of the gross annual payroll of all members shall be deposited to this fund. One half of this amount shall derive from member contributions and one half from state appropriation. In addition whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, 161.655 and 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits.

[(5) The hospital and medical insurance fund shall be the fund in which an amount equal to one-half of one per cent (.5%) of the gross annual payroll of all members shall be deposited. One-quarter of one per cent of such funds shall derive from member contributions and one-quarter of one per cent (.25%) from state appropriation. Moneys so deposited shall be paid from this fund in order to meet costs resulting from medical and hospital services to retired members as provided in KRS 161.675. Any amounts not required to meet current costs shall be maintained as a reserve for this benefit.

(6) The survivors and death benefit fund shall consist of amounts accumulated for the purpose of providing survivors and death benefits to the estates or assigns of deceased members as provided in KRS 161.520, 161.525, and 161.655. One half of one percent of the annual compensation of all members shall be deposited in this fund. One-quarter of one per cent (.25%) of this amount shall derive from the contributions of members and one-quarter of one per cent (.25%) from state appropriation. In addition whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund and the allowance reserve fund such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, and 161.655 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for this benefit.]

(6) [(7)] The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund.

Section 4. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer or other disposition of the investments and moneys of the retirement system. The board shall employ an experienced competent investment counselor to advise it on all matters pertaining to investment. The board may appoint an investment committee consisting of the executive secretary and two trustees to act for the board in all matters of investment subject to the approval of the board of trustees. The board of trustees in keeping with their responsibilities as trustees and wherever feasible shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. No investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investments, are included in the following defined categories of securities:

(a) Bonds, notes and other obligations of or guaranteed by the United States, or those for which the credit of the United States is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, or any other obligations or securities issued or guaranteed by any federal government agency, presently or in the future established by an act of congress, and as amended or supplemented from time to time;

(b) Obligations of the Commonwealth of Kentucky and obligations of its departments and agencies, including revenue bonds;

(c) Obligations of any city of the first, second, third, fourth, or fifth classes of the Commonwealth of Kentucky, or county containing such city, for the payment of principal and interest on which the full faith and credit of the issuing body is pledged;

(d) School improvement bonds issued in accordance with authority granted under KRS 162.080 to 162.100;

(e) School building revenue bonds issued in accordance with authority granted under KRS 162.120 to 162.300, and any act or acts passed in the 1960 session of the General Assembly providing for the issuance of school building revenue bonds, provided the issuance of such bonds is approved by the State Department of Education;

(f) Revenue bonds issued by education institutions of the Commonwealth of Kentucky as authorized by KRS 162.340 to 162.380;

(g) Public utility revenue bonds issued by any city of the first, second, third, fourth, or fifth classes, or by a county containing such a city, or by a special taxing district located within such city or county in the Commonwealth, provided: 1. the net income from such public utility property available for the payment of such securities for the five fiscal years next preceding any such investment, shall have averaged at least 1 1/10 times all debt service requirements for principal, interest and sinking fund of all revenue securities payable only out of the revenues from such property during each of such fiscal years, and 2. the issuer of the securities covenants and is obligated to maintain rates to produce revenues or will receive contract payments, either or both of which will be sufficient to meet cost of operation, taxes and all debt service requirements and such obligation or contract is legally enforceable;

(h) Obligations, consisting of notes, bonds, debentures, equipment trust certificates, or conditional sales agreements. Purchase of any of the above shall be limited to those which are the direct obligation or are secured by direct obligation, of a corporation organized under the laws of the United States, or any state in the United States, or the District of Columbia or are secured by first mortgage indentures in the case of equipment trust certificates and/or conditional sales agreements. Such bonds or other obligations must be rated at the time of purchase within the three highest classifications established by one or more major rating services;

(i) Deposits in banks or trust companies in the Commonwealth of Kentucky organized under the laws of this state, or of the United States, when such deposits are interest bearing at a rate not lower than four percent per annum and when such deposits are fully secured by direct obligations of the United States Government or of the Commonwealth of Kentucky, placed in the hands of the state treasurer and approved by the board of trustees;

(j) Stocks, preferred or common, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof;

(k) Mutual-type funds established and controlled by any organization which may be formed by the Kentucky Teachers' Retirement System and other state retirement systems of Kentucky and other southern states for the mutual investment of funds in Kentucky or the southern regional area;

(l) [Productive] Real estate, first mortgages on real estate, or shares of beneficial interest in real estate investment trusts established under the laws of the United States or any state thereof;

(m) Industrial revenue bonds issued under authority of KRS 103.200 to 103.280; provided, however, the lease for the building between the city and the leasing corporation is for a period equal to or greater than the period for which the bonds are issued and the rental payments are sufficient to amortize all the bonds issued, and further provided that:

1. The common stock of the leasing corporation shall be listed on either the New York Stock Exchange or the American Stock Exchange.

2. In each of the last three reporting years prior to the issuance of the bonds the income before taxes of the leasing corporation must have been equal to at least twice the maximum lease requirements under the lease agreement.

3. The current assets of the leasing corporation at the end of each of the last three reporting years prior to the issuance of the bonds must have been at least 150 percent of the current liabilities at those given periods.

4. The net worth of the leasing corporation at the end of the last reporting period must be at least twice the amount of the proposed bond issue under the lease agreement.

5. The net working capital of the leasing corporation at the end of the most recent reporting year must have been at least fifteen million dollars;

(n) Obligations of the Kentucky Industrial Development Authority;

(o) Appropriate contracts of life insurance companies duly authorized and licensed to do business in the State of Kentucky, including any such contract or contracts which provide for the placement of funds in a separate account maintained by any such insurer according to the sections of the Kentucky Revised Statutes controlling such accounts;

(p) Bonds and indentures issued by international organizations established under treaties or agreements approved and ratified by the Congress of the United States and to which the government of the United States is a major contributor of funds.

(2)(a) Not more than twenty-five percent of any one issue may be purchased by the board of trustees as an investment, and not more than five percent of the invested funds of the retirement system may be invested in the obligations of any issuer except in the case of obligations of the United States government; provided that not more than ten percent of the invested funds may be invested in an issue of the Commonwealth of Kentucky or its departments or agencies as defined in this subsection. For the purpose of this subsection revenue bond obligations of the Commonwealth of Kentucky or its departments or agencies shall not be deemed to be obligations of the same obligor if the revenues pledged are derived from separate projects. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten years immediately preceding the purchase.

(b) No more than seventy-five percent of the assets of the retirement system may be invested in the foregoing classification subsection (1) (h); no more than twenty percent of said assets may be invested in any of the foregoing classifications subsections (1) (b), (1) (c), (1) (d), (1) (e), (1) (f), and (1) (g); no more than forty percent of said assets may be invested in the foregoing classification subsection (1) (j); and no more than ten percent of said assets may be invested in any one of the foregoing classifications subsections (1) (i), (1) (k), (1) (l), (1) (m), (1) (n), (1) (o), and (1) (p).

(3) No investment or disbursement of funds shall be made unless authorized by the board of trustees.

Section 5. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers and all present teachers except as provided in Acts, 1938 (1st ex.sess.), ch. 1, paragraph 29. No person without previous Kentucky service who was age sixty-five or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in KRS 161.470(3).

(3) Effective July 1, 1974, and thereafter, an active contributing member of the retirement system with contributing service equal to two years or the number of years subsequent to the withdrawal of contributions, whichever is the lesser number, may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two years of contributing service credit who declined membership as provided in Acts, 1938 (1st ex.sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of six percent compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death; or

(c) By withdrawal of the member's accumulated contributions.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions with regular interest including any payments made by the teacher to the state accumulation fund, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to *contributions made to the survivor, death and medical insurance fund* [any contributions made to the hospital and medical insurance fund, or the survivors and death benefit fund]. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, but in lieu thereof the teacher shall be entitled to a retirement allowance.

(7) Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the teacher to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to *contributions made to the survivor, death and medical insurance fund* [any contributions made to the hospital and medical insurance fund or the survivors and death benefit fund].

(8) Any active contributing member of the Kentucky employes retirement system, the county employes retirement system, the state police retirement system, or the judicial retirement system may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 6. KRS 161.480 is amended to read as follows:

(1) Each person, upon becoming a member of the retirement system shall file a detailed statement as required by the board of trustees and shall designate a beneficiary to receive any benefits accruing from the death of the member. This designation shall remain in full force and effect until changed by the member *on forms prescribed by the Kentucky teachers' retirement system* except that subsequent marriage or divorce by the member shall void the designation and the spouse of the member at death shall be considered as beneficiary in the event of subsequent marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce, unless the member subsequent to marriage or divorce designates another beneficiary. The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section.

(2) Each retiree shall, prior to the effective date of retirement, designate a beneficiary who shall be eligible to receive such survivors benefits as may be provided by the retirement option selected by the retiree. A beneficiary designation may not be changed after the effective date of retirement under either of the joint and last survivor options provided by the system.

Section 7. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred sixty dollars per month with no restriction on other income; or

(b) One hundred ninety dollars per month when surviving widow or widower's total income from all sources does not exceed six thousand dollars per year or five hundred dollars per month; or

(c) If the deceased member has a minimum of ten years of service credit with the teachers' retirement system, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except that eligibility for this benefit shall cease upon remarriage. This subsection applies to surviving spouses of members who die on or after July 1, 1978.

[(1) Where there is a surviving widow, or a widower, who is named as beneficiary of the member's retirement account, the benefit shall be one hundred sixty dollars per month, except that effective July 1, 1976, the benefit shall be one hundred seventy-five dollars per month for an eligible widow or widower whose total income from all other sources does not exceed six thousand dollars per year or five hundred dollars per month.]

(2) Where there are surviving unmarried children under age eighteen or under age nineteen if a full-time student in high school, the benefit shall be one hundred *fifty-five* [forty] dollars per month in the case of one such child, two hundred *seventy* [fifty] dollars per month in the case of two such children, three hundred *twenty-five* dollars per month in the case of three such children, and three hundred *fifty* [twenty-five] dollars per month in the case of four or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3).

(3) Where the survivor is a child age eighteen or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death the benefit shall be one hundred *ninety* [seventy-five] dollars per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists. Benefits under this subsection and subsection (2) shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five or over, the benefit shall be one hundred *ninety* [seventy-five] dollars per month for one parent or two hundred *sixty* [forty] dollars per month for two parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred *fifty-five* [forty] dollars per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen or upon reaching age nineteen if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1),

(2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 8. KRS 161.540 is amended to read as follows:

(1) Each member shall contribute to the retirement system seven and seven-tenths per cent of his annual compensation. The contribution of a member shall not exceed this percentage on his current annual compensation.

(2) Effective July 1, 1979, each member shall contribute to the retirement system seven and eighty-four hundreds percent of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

(3) Effective July 1, 1980, each member shall contribute to the retirement system nine and thirty-two hundreds percent of annual compensation except that university faculty members shall contribute seven and eighty-four hundreds percent of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation.

Section 9. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees.

(2) *Active* members who have been granted leaves of absence since *July 1941, for reasons of health or to improve their educational qualifications, and did not make contributions to the teachers' retirement system* [July 1, 1960, as provided in KRS 161.770, and who did not make contributions to the teachers' retirement system as provided for in regulations of the board of trustees], may make contributions prior to *July 1, 1979* [retirement] under the following conditions:

(a) Such leave shall be verified by a copy of the board of education minutes which granted the leave of absence;

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of three percent compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and

(c) The member may receive credit for no more than two years under the provisions of this subsection.

Section 10. KRS 161.550 is amended to read as follows:

Beginning with July 1, 1976, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, in addition to the above amount, *provide an annual overmatch of three and one-fourth percent (3.25%) of total member salaries to discharge the system's unfunded obligations with interest assumed by the state* [contribute annually an amount sufficient to discharge the prior service and other unfunded obligations with interest assumed by the state, over a period not greater than thirty (30) years].

Section 11. KRS 161.590 is amended to read as follows:

(1) At retirement the total service credited to a teacher shall consist of prior and subsequent service rendered by him for which service credit has been allowed.

(2) Kentucky service, presented at the time of retirement, may not be used in calculating benefits under KRS 161.525, 161.620, or 161.661, if such service has been used to increase benefits in another retirement system, not including old age and survivors insurance benefits under the social security administration.

(3) No service credit shall be added to a member's account after the effective date of retirement for service.

Section 12. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1976, a member of the retirement system may qualify for service retirement by meeting either of the following requirements:

(a) Attainment of age fifty-five years and completion of five years of Kentucky service, two years of which are subsequent to July 1, 1941, or

(b) Completion of thirty years of Kentucky service, two years of which are subsequent to July 1, 1941.

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under (a) who are less than age sixty years, and under (b) if less than age fifty-five years.

(2) Any member shall be automatically retired as of July 1 next following the seventieth birthday, providing, however, that a member reaching age seventy and having fewer than five years of Kentucky service,

two years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for thirty years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five years may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the county employes or the judicial retirement system may be used in meeting the service requirements of subsections (1)(a) and (1)(b) of this section, provided such service is subsequent to July 1, 1956.

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 13. KRS 161.603 is amended to read as follows:

(1) Any teacher retired by reason of service and less than age seventy may waive his annuity and return to regular employment in a Kentucky public elementary or secondary school or state college or university covered by the system. Such teacher shall receive no annuity payments while so employed, but shall continue to be covered by the system's hospital and medical insurance program and his estate shall continue to be eligible for death benefits as provided in KRS 161.655. He shall be returned to the annuity rolls as of the first of the month next following the month in which the last teaching was performed. A teacher who waives his annuity and teaches for eight months or more during a school term shall be returned to the annuity rolls as of July 1 following the close of such school term. Such person shall not be considered a member of the retirement system, and no contributions shall be made for him. Service subsequent to retirement shall not be used to improve an annuity, except as provided in subsection (2) below.

(2) Any teacher who waives regular annuity benefits and returns to teaching for at least two consecutive regular school years shall be entitled to make contributions on the salaries received for such service and *have their retirement annuity recalculated* [receive an increase in regular annuity equal to the percentage of salary on which additional contributions are made] as provided in the regular retirement formula in KRS 161.620(1)(a) less any applicable actuarial discount applied to the original retirement allowance due to the election of a joint and last survivor option. Retirement option and beneficiary designation on original retirement shall not be altered by post-retirement employment nor shall dependents and spouses of such members become eligible for benefits under KRS 161.520, [and] 161.525 *and 161.661* because of post-retirement employment.

Section 14. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service whose age at retirement is fifty-five years or more shall be calculated as follows:

(a) For retirements effective during the *1978-79 and 1979-80 fiscal years, the annual allowance for each year of service performed prior to July 1, 1941, shall be eighty-eight dollars and the annual allowance for each year of service performed after July 1, 1941, shall be two percent of the final average salary. Actuarial discounts due to age at retirement may be applied as provided in this section* [1976-77 fiscal year the annual allowance shall be sixty-four dollars times the number of years service credit prior to July 1, 1941, plus two percent of the final average salary times the number of years service credit after July 1, 1941. Actuarial discounts due to age at retirement may be applied as provided in subsections (1)(c) and (1)(d) of this section].

(b) For retirements effective July 1, *1980* [1977], and thereafter the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service *performed after July 1, 1980, shall be valued at two and one-half percent of the final average salary for all members not employed by a state university or college* [prior to July 1, 1941, shall be eighty-eight dollars per year].

(c) If the member has thirty years or more of Kentucky service, including credit for military service and is less than fifty-five years of age, the allowance shall be reduced by three percent for each year the member is less than fifty-five.

(d) If the member has five years or more of Kentucky service, but less than thirty years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty years of age or by the number of years the service credit is less than thirty years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances.

(2) Effective July 1, 1970, and annually on July 1 thereafter the annual retirement allowance of each retired teacher and of each beneficiary of a retirement option shall be increased in the amount of one percent of the retirement allowance in effect on July 1, 1970, or the date of retirement, whichever occurs later.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than *eighty-eight* [sixty] dollars multiplied by the service credit years of the teacher, except that no retired teacher who was sixty years of age or older at retirement, and who has five years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than *seventy-five* [fifty-five] dollars. The above minimums shall be effective July 1, *1978* [1974], and shall apply to those members retiring on or subsequent to that date.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1978, the monthly allowance of each member retired on or before July 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent of the monthly allowance. Effective July 1, 1978, the monthly allowance of each member retired on or before July 1, 1977, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent of the monthly allowance. Effective July 1, 1979, the monthly allowance of each member retired on or before July 1, 1978, and of each recipient of a retirement option of such retired member shall be increased in the amount of two percent of the monthly allowance. The above percentages shall be based on an assumed minimum allowance of two hundred dollars per month and an assumed maximum of six hundred dollars per month of annuity in effect the previous month.

[(5) Effective July 1, 1976, the monthly retirement allowance of each member retired on or before June 1, 1976, and of each recipient of a retirement option of such retired member shall be increased in the amount of three percent of the monthly allowance for each year from the effective date of retirement or July 1, 1971, whichever is the later date, to July 1, 1976. Fractional years shall be calculated on a pro rata basis. The above percentages shall be based on an assumed minimum allowance of two hundred dollars per month and an assumed maximum of five hundred dollars per month of annuity in effect the previous month.

(6) Effective July 1, 1976, each member who retired prior to that date and each recipient of a retirement option of such member shall receive an increase in monthly benefits equal to two dollars for each year of credited service prior to July 1, 1941. Each member who retired prior to July 1, 1977, and each recipient of a retirement option of such member shall receive an increase of two dollars per month for each year of credited service prior to July 1, 1941, to be effective July 1, 1977. No more than fifteen years of service prior to July 1, 1941, shall be used in calculating these increases for each member.]

Section 15. KRS 161.630 is amended to read as follows:

A member, upon retirement shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement, to receive actuarially equivalent benefits under such options as the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1) [under which the benefit is fifty percent of last earned annual compensation without regard to years of service and final average salary].

Section 16. KRS 161.655 is amended to read as follows:

(1) Upon the death of a member retired for service or disability, a death benefit of two thousand and two hundred dollars shall be paid to the member's estate. Upon the death of an active contributing member, a death benefit of two thousand dollars shall be paid to the member's estate. Application for the death benefit shall be made to the teachers' retirement system together with acceptable evidence of death and eligibility.

[(1) Upon the death of a retired teacher who at the time of death is receiving a retirement or disability allowance, or upon the death of an active contributing member a death benefit of $2,000 shall be paid to his estate following application to the board of trustees, together with acceptable evidence of death and eligibility.]

(2) Suit or civil action shall not be required for the collection of the death benefit provided herein, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

Section 17. KRS 161.661 is amended to read as follows:

(1) Any member who has completed five or more years of accredited service in the public schools of Kentucky after July 1, 1941, may retire for disability and be granted a disability allowance if found to be eligible as provided below. Application for disability benefits must be made within one year of the last contributing service in Kentucky, and the disability must have occurred during the most recent period of

employment in a position covered by the teachers' retirement system and subsequent to the completion of five years of teaching service in Kentucky. A disability occurring during the regular vacation immediately following the last period of active service in Kentucky or during an official leave for which the member is entitled to make regular contributions to the retirement system, shall be considered as having occurred during a period of active service. The annual disability allowance shall be equal to *sixty percent of the member's final average salary* [one-half of the last earned annual compensation], except that a member retiring for disability who is also eligible for service retirement may elect to have the benefit calculated on the service retirement formula and may choose any of the retirement options provided for service retirement.

(2) No member who has reached the age of sixty years and who is otherwise qualified for retirement may retire by reason of disability, with the disability allowance of *sixty percent of the member's final average salary* [one-half of the last earned annual compensation] as set out in subsection (1) above. A member who is sixty years of age or older may retire for disability with the benefit calculated on the service retirement formula and the choice of retirement options as provided for service retirement. Provisions of KRS 161.520, 161.525, and subsections (3), (4), (5) of this section shall not apply to disability retirees whose benefits were calculated on the service retirement formula nor to survivors of such members.

(3) Members shall earn one year of entitlement to disability retirement, at *sixty percent of the member's final average salary* [one-half of last earned annual compensation], for each four years of service in a covered position but any member meeting the service requirement for disability retirement shall be credited with no less than five years of such eligibility.

(4) A member retired by reason of disability shall continue to earn service credit at the rate of one year for each year so retired. Such service shall be credited to the member's account at the expiration of entitlement as defined in subsection (3) of this section, or when the member's eligibility for disability benefits is terminated upon recommendation of the medical review board, and shall be used in calculating benefits as provided in subsection (5) of this section.

(5) Any member retired by reason of disability and remaining disabled at the expiration of the eligibility period shall have such disability benefits recalculated using the service retirement formula with service credit as set out in subsection (4) above. The retirement allowance shall be calculated as set forth in KRS 161.620 except that those persons less than sixty years of age shall be considered as sixty.

(6) Members who have their disability retirement allowance recalculated at the expiration of the entitlement period shall continue to have coverage under the post-retirement medical insurance program. Restrictions on employment shall remain in effect until the member attains age seventy or until the member's eligibility is discontinued. KRS 161.520 and 161.525 shall not apply to survivors of disability retirees whose retirement allowances have been recalculated at the expiration of the entitlement period.

(7) Any member retired by reason of disability may voluntarily waive disability benefits and return to teaching or such member, who is age sixty years or older, may elect to waive disability benefits and retire for service on the basis of service credited to the member on the effective date of the disability retirement.

(8) In order to qualify for retirement by reason of disability a teacher must suffer from a physical or mental condition presumed to be permanent in duration and of such a nature as to render him incapable of being gainfully employed as a teacher. Such incapability must be revealed by a competent examination by a licensed physician or physicians and must be approved by a majority of the medical review board.

(9) A member retired by reason of disability shall be required to undergo periodic examinations at the discretion of the board of trustees to determine whether the disability allowance shall be continued. When examination and recommendation of the medical review board indicate the disability no longer exists, the allowance shall be discontinued.

(10) *Eligibility for payment shall begin on the first day of the month following receipt of the application in the teachers' retirement system office* [No payment of a disability benefit shall be made until ninety days after the first day of the month in which the application for disability retirement was filed], or the first of the month next following the last payment of salary or sick leave benefits by the employer, whichever is the later date.

(11) No person who receives a disability allowance may serve as a teacher either within or without the state of Kentucky. So doing shall constitute a misdemeanor; and shall result in loss of such allowance from the first date of such service. The recipient of a disability allowance who engages in any gainful occupation other than teaching must make a report of the duties involved, compensation received and any other pertinent information required by the board of trustees. If the annual income from other employment plus the disability benefit exceed the sum of nine thousand dollars or the last earned compensation, whichever is the greater amount, the benefit shall be reduced to an amount which with earned income will not exceed the last earned compensation or nine thousand dollars, whichever is the greater amount. In no case shall the benefit be reduced to less than *seventy-five* [fifty-five] dollars per month, if the member has five or more years of contributing service in the teachers' retirement system.

(12) The board of trustees shall designate a medical review board consisting of three or more licensed physicians and may designate physicians in various areas of the commonwealth to conduct examinations as

needed. The medical review board shall pass upon all applications for disability retirement and upon all statements, certifications, and examinations submitted in connection with such applications. The disposition of each case shall be recommended by the medical review board in writing to the board of trustees. Members of the medical review board shall follow such rules and regulations regarding procedures as the board of trustees may enact and shall be paid reasonable fees and expenses as authorized by the board of trustees in compliance with the provisions of KRS 161.330 and 161.340. The board of trustees may secure such additional medical service and information as it deems necessary.

(13) A disability may be presumed to be permanent if the condition creating such disability may be reasonably expected to continue for one year or more from the date of application for disability benefits.

(14) Any member who has voluntarily waived disability benefits or whose disability benefits have been discontinued on recommendation of the medical review board, may apply for reinstatement of disability benefits. The application for reinstatement must be made to the retirement system within twelve months of the date disability benefits terminated. If the termination of benefits were voluntary the reinstatement may be made without medical examination if application is made within three months of the termination date. Other applications for reinstatement will be processed in the same manner as new applications for benefits.

Section 18. KRS 161.675 is amended to read as follows:

(1) The board of trustees is empowered to enter into contracts with insurance carriers for the purpose of providing a broad program of hospital and medical insurance coverage to *members* [teachers] retired for service *or* [who are age fifty-five (55) or older, to teachers retired by reason of] disability. *Coverage may be extended* [, and] to the spouses and minor children of said retired *members, provided the member began participating in the teachers' retirement system prior to July 1, 1978* [teachers]. Coverage may also be extended to spouses and to minor children of *members* [teachers] in active contributing status who are deceased prior to retirement if *the surviving spouse is eligible to receive the member's retirement benefit as provided in KRS 161.525 and elects to do so* [such teachers were fifty-five years of age or older and eligible for service retirement at the time of death].

(2) The coverage provided shall be as set forth in the contracts and the regulations of the board of trustees. The contracts and regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five years creditable Kentucky service in the teachers' retirement system to qualify for such coverage.

(3) The board of trustees is empowered to pay premiums for insurance coverage from the hospital and medical insurance fund. It may provide such insurance coverage as is deemed desirable by making payment to institutions and individuals for services performed, or the board of trustees may elect to provide such insurance protection on a "self-insurance" basis.

(4) Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(5) The board of trustees is empowered to adopt such rules and regulations as are necessary to assure efficient operation of the hospital and medical insurance program.

Section 19. KRS 161.705 is amended to read as follows:

[(1)] Any member of the teachers' retirement system, or the *employer of* [board of education employing such] member, or both, may make voluntary contributions of *four percent (4%)* [two percent (2%)] or more of the member's annual compensation to the retirement system for the benefit of the member. Such contributions shall be invested as provided in KRS 161.430. *Separate member accounts shall be maintained for voluntary contributions under rules and regulations enacted by the board of trustees.*

[(2) At retirement upon the written application any such member shall receive in addition to retirement allowances provided by law, such annuity as has been earned by the voluntary contributions made by or for such member, computed upon an actuarial basis, or a refund of contributions and accrued interest. The member shall have the same benefit options with respect to such additional annuity as are provided in KRS 161.630, or the member may elect to receive no more than two lump sum payments of contributions and accrued interest in lieu of an annuity.

(3) Upon the death or withdrawal from the retirement system of any member for any reason other than retirement, or upon the demand of the member such member or the estate of such member shall be reimbursed for any voluntary contributions made by such member. If a deceased member has named a beneficiary for such contributions and accrued interest, the beneficiary may elect to receive any annuity or lump sum settlement which the member could have elected at retirement, adjusted for age and sex of the beneficiary. A board of education may be reimbursed for any contributions made on behalf of a member by the board. Such reimbursement shall be made in a lump sum with earned interest at a rate fixed by the retirement board.]

SECTION 20. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

It is hereby declared that in consideration of the contributions by members and in further consideration of benefits received by the state from the member's employment, KRS 161.220 through 161.710 shall constitute an inviolable contract of the Commonwealth, and the benefits provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal.

Section 21. This Act shall become effective July 1, 1978.

HB 638, AN ACT relating to retirement systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.607 is amended to read as follows:

(1) Any member of the teachers' retirement system who enters employment covered by the Kentucky employes retirement system, the state police retirement system, or the county employes retirement system, prior to July 1, 1976, may retain membership in the teachers' retirement system instead of joining the new system.

(2) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system may elect to retain membership in that system during the term of office, instead of participating in the Kentucky employes retirement system. *If a member of the general assembly, who is employed in a position covered by the teachers' retirement system, elects to retain membership in the teachers' retirement system, the member may contribute an amount equal to seven and seven-tenths percent(7.7%) of the amount by which the compensation as a general assembly member exceeds the salary received through the regular employment.* No contributions may be made to *more than one* [the teachers' retirement] system for the same period of service [as may be covered by contributions to the Kentucky employes retirement system]. Service as a member of the general assembly may be used to meet the service requirements of KRS 61.680(2)(a) and 161.510 regardless of the system to which contributions are made by the member.

(3) Any member of the teachers' retirement system entering employment as described in subsection (1) or (2) above must exercise the option within ninety (90) days of the beginning of such employment.

(4) Persons who enter service covered by the teachers' retirement system prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in the above subsections may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

SB 198, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.060 is amended to read as follows:

Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools. The legal holidays designated by the state board of education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as school days. No teacher shall teach on Saturdays except in cases of emergency and then only upon authorization of the state board *for elementary and secondary* [of] education. Except for children attending kindergarten, readiness classes, first grade classes, and the handicapped, who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the state board *for elementary and secondary* [of] education, six (6) hours of actual school work shall constitute a school day. The daily session, including recesses and intermissions, shall not exceed nine (9) hours. *A local board of education, with the approval of the state board for elementary and secondary education, may extend the regular school day, when necessary, to make up days missed as a result of emergency, providing that the extended school day shall not exceed nine (9) hours. If a school district has adopted an extended school day before such emergency, the time in excess of the minimum school day may, with the approval of the state board for elementary and secondary education, be used to make up days missed as a result of emergency.* [A pupil who is absent, excused or dismissed from any regularly scheduled class to attend not more than four (4) field trips in a school term may be considered in attendance on those days, if the field trip is part of a regularly scheduled class; Provided, however, That upon application of any district superintendent, the superintendent of public instruction or the state board of education may, if sufficient cause be shown, grant authority to use an additional day or days for special field trips or exceptional events.]

Section 2. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five days. [The superintendent of public instruction, upon the approval of the state board of education, may extend the minimum term to ten months when the resources of the school fund or contributions by local taxation justify the extension; but no extension shall be made if it reduces the salaries of the teachers below the minimum fixed by law.] A board of education may extend its term beyond the minimum term set by the superintendent of public instruction. In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employes to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter or upon request of the statewide professional educational association having the largest paid membership, the superintendent of public instruction may designate alternate dates. Furthermore, the superintendent of public instruction shall designate one (1) additional day during the school year when schools shall be closed for the purpose of permitting professional school employes to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with regulations promulgated and adopted by the state board *for elementary and secondary* [of] education upon the recommendation of the state superintendent of public instruction, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30.

(b) A pupil's required attendance in school shall be for at least the minimum term.

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) Each local board of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. The board of education of any school district may use *up to a maximum for four (4) days of the minimum school term for holidays, provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday* [no more than four days of the minimum school term for holidays], two (2) days for the opening and closing of schools without the presence of pupils, *the number of* [a total of five] days *deemed necessary* for (a) national or state disaster or mourning when proclaimed by the President of the United States or the governor of the Commonwealth of Kentucky, and (b) local disaster which would endanger the health or safety of children or mourning when so designated by the district board of education and approved by the state board *for elementary and secondary* [of] education upon recommendation of the superintendent of public instruction, and shall use one day of excused absence for attendance at the Kentucky state fair for students applying for excused absence for this purpose.

(4) The state board *for elementary and secondary* [of] education, upon recommendation of the superintendent of public instruction, shall adopt regulations governing the use of school days and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for in-service professional development and planning activities for the professional staff.

Section 3. Whereas, a number of school districts have had to dismiss school because of severe weather in excess of the number of days allowed by statute, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Highways and Traffic Safety reported **HB 206, HB 520, HB 618, HCR 50,** and **SB 114** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 206, AN ACT relating to the turnpike authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.520 is amended to read as follows:

(1) The authority, while having the right to control tolls under this chapter or any lease, and the bureau, while having such right under this chapter or any such lease, are hereby authorized to fix, revise, charge and collect tolls for the use of each turnpike project and the different parts or sections thereof.

(2) A motor vehicle forming part of a funeral procession when going to a place of burial shall be exempt from any tolls when travelling on turnpike projects and the different parts or sections thereof if the vehicle displays a flag upon which shall be printed, stamped or stained a cross or the star of David and the word "funeral".

(3) The authority, with the approval of the bureau, is hereby authorized to contract with any person, partnership, association or corporation desiring the use of any part of a project, including the right of way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, service stations, garages, stores, hotels, motels, and restaurants, or for any other purpose except for tracks for railroad or railway use, and to fix the terms, conditions, rents and rates of charges for such use. A sufficient number of service stations shall be authorized to be established in each service area along any such turnpike to permit reasonable competition by private business in the public interest.

(4) [(3)] During any period when tolls are under the control of the authority, such tolls shall be so fixed and adjusted in respect of the aggregate of tolls from the turnpike project or projects in connection with which the bonds of any issue shall have been issued under the provisions of this chapter as to provide funds sufficient, with any other available funds, to pay (a) the cost of maintaining, repairing and operating such turnpike project or projects, unless such cost or any part thereof is being paid by the bureau as authorized in this chapter, and (b) the principal of and the interest on such bonds as the same shall become due and payable, and to create reserves for such purposes. Such tolls shall not be subject to supervision or regulation by any other department, commission, board, bureau or agency of the commonwealth. The tolls and all other revenues derived from the turnpike project or projects in connection with which the bonds of any issue shall have been issued, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the proceedings authorizing the issuance of such bonds or the trust indenture securing the same, shall be set aside in a sinking fund or funds which are hereby pledged to and charged with the payment of the principal of and the interest on such bonds as the same shall become due and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the tolls or other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the proceedings nor any trust indenture by which a pledge is created need be filed or recorded except in the records of the authority and the bureau. The use and disposition of moneys to the credit of any such sinking fund shall be subject to the provisions of the proceedings authorizing the issuance of such bonds or of such trust indenture. Except as may otherwise be provided in such proceedings or in such trust indenture, any such sinking fund shall be a fund for all bonds provided to be payable therefrom without distinction or priority of one (1) over another.

(5) [(4)] Notwithstanding any of the foregoing provisions of this section, the bureau may, by separate proceedings ancillary to the proceedings of the authority authorizing the issuance of revenue bonds or revenue refunding bonds under the provisions of this chapter, covenant to pay all or any part of the cost of maintaining, repairing and operating any project constructed under the provisions of this chapter, and the bureau may, in such proceedings, covenant to make up all or any part of any deficiency in the fund or funds pledged to and charged with the payment of the principal of and the interest on such bonds from any funds or tax revenues available for general purposes of the bureau and not required by law to be devoted to some other purpose, and, inasmuch as such project will have been constructed by agreement with the bureau for the use and benefit of the commonwealth and will eventually become the property of the commonwealth, any such covenant shall have the force of contract between the commonwealth and the holders of such revenue bonds or revenue refunding bonds.

(6) [(5)] Notwithstanding any of the foregoing provisions of this section, the authority may, in the proceedings authorizing the issuance of revenue bonds or revenue refunding bonds for any turnpike project or projects under the provisions of this chapter or in the trust agreement securing such bonds, pledge to the payment of such bonds all motor fuel taxes and surtaxes collected by the commonwealth on gasoline and other motor fuels consumed on such project or projects (except the two-sevenths (2/7) of said motor fuel taxes provided by KRS 138.220 to be set aside for the construction, reconstruction and maintenance of rural and secondary roads) and paid over to the authority by the bureau as revenues of such project or projects, and covenant to deposit such motor fuel taxes from time to time in the sinking fund or funds pledged to the payment of such bonds. In determining the amount of motor fuel consumed on any turnpike project the bureau shall divide the total miles traveled on such project by passenger automobiles, single unit trucks, and semitrailer trucks and buses as determined by the bureau by the average number of miles per gallon of motor fuel consumed by each of those classes of motor vehicle on the following basis:

Passenger automobiles	15 miles per gallon
Single unit trucks	10 miles per gallon
Semitrailer trucks and buses	5 miles per gallon

Section 2. KRS 175.410 is amended to read as follows:

As used in this chapter, the following words shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the turnpike authority of Kentucky;

(2) The word "bureau" shall mean the bureau of highways, or, if said bureau shall be abolished, the department, board, body or commission succeeding to the principal functions thereof or to whom the powers given by KRS 177.390 to 177.570 to the bureau shall be given by law;

(3) The word "project" or the words "turnpike project" shall mean any express highway or superhighway or such part or parts thereof as may be constructed by the authority under the provisions of this chapter, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, connecting highways, tollhouses, service stations, garages, restaurants, and administration, storage and other buildings and facilities which the authority may deem necessary for the operation of such project, together with all property, rights, easements and interests which may be acquired by the authority or by the bureau for the construction or the operation of such project;

(4) The word "cost" as applied to a turnpike project shall embrace the cost of construction, the cost of the acquisition of all land, rights of way, property, rights, easements and interests acquired for such construction, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, provision for working capital in such amount as the authority shall determine to be reasonable, interest prior to and during construction and, if deemed advisable by the authority, for a period not exceeding two (2) years after completion of construction, cost of traffic estimates, engineering and legal expenses, cost of plans, specifications, surveys, estimates of cost and of revenues, other expenses as may be necessary or incident to determining the feasibility or practicability of constructing any such project, administrative expenses, and such other expense as may be necessary or incident to the construction of the project, the financing of such construction and the placing of the project in operation. Any obligation or expense hereafter incurred for a turnpike project by the authority or by the bureau on behalf of the authority, and any obligation or expense heretofore incurred by the bureau for any such turnpike project, for traffic surveys, borings, preparation of plans and specifications, engineering, and other services in connection with the construction of a project may be regarded as a part of the cost of such project and may, if advanced by the bureau, be reimbursed to it out of the proceeds of turnpike revenue bonds of the authority;

(5) The words "public highways" shall include all public highways, roads and streets in the commonwealth, whether maintained by the commonwealth or by any county, city, town or other political subdivision or agency;

(6) The word "bonds" or the words "revenue bonds" or "turnpike revenue bonds" shall mean revenue bonds or revenue refunding bonds of the authority issued under the provisions of this chapter;

(7) The word "owner" shall include all individuals, copartnerships, associations, or corporations having any title or interest in any property, rights, easements or interests authorized by this chapter to be acquired;

(8) The word "agreement" shall mean a written agreement, made by and between the authority and the bureau under the provisions of KRS 175.460, providing for the financing and constructing of one or more turnpike projects by the authority;

(9) The word "lease" shall mean a written lease made by the authority as lessor and the bureau as lessee under the provisions of KRS 175.470, relating to one or more turnpike projects financed and constructed by the authority;

(10) The word "biennium" or the words "biennial period" or "biennial term" shall mean the two (2) year fiscal period of the commonwealth, commencing on July 1 in each even-numbered year and ending on June 30 in the next ensuing even-numbered year.

(11) "Funeral procession" means a hearse or funeral car followed by one or more motor vehicles displaying flags or pennants with a cross or star of David and the word "funeral" to designate their participation in a funeral.

HB 520, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Upon the governor's declaration of an emergency pursuant to the provisions of this chapter, caused wholly or partially by snow, ice or rain which seriously hinders or endangers vehicular traffic upon public roads and highways of the Commonwealth, the secretary of transportation may order the activation of the "Interlocal Road Clearance Agreement." It shall be the duty of the department of transportation and each county, urban-county government and city to render assistance in accordance with the provisions of the agreement.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of transportation shall develop a plan for state, county, urban-county government and city cooperation for the purposes of the clearance of snow and ice from public roads and highways in extraordinary situations to be known as the "Interlocal Road Clearance Agreement."

(2) The agreement shall create mutual aid arrangements between the department of transportation, and the various counties, urban-county governments and cities of this Commonwealth for reciprocal road clearance aid and assistance in cases where the individual governmental unit is unable to deal with the emergency unassisted. The plan shall provide:

(a) Procedures for the temporary transfer of equipment and personnel between governmental units;

(b) Procedures for the loaning or purchasing of sand, salt and other materials between governmental units;

(c) Systems for delineating areas of responsibility between governmental units;

(d) A system for providing economic assistance and expense sharing between economic units; and

(e) Any other provisions deemed necessary by the secretary to effectuate road clearance within the Commonwealth under emergency situations.

(3) The secretary shall complete the "Interlocal Road Clearance Agreement" within one (1) year of the effective date of this Act. The secretary shall amend the agreement as he sees fit, but shall give local governmental units two (2) months' notice of any amendments to the agreement.

(4) Every county, urban-county government, and city within the Commonwealth is a party to the agreement and is deemed to have consented to the provisions thereof.

HB 618, AN ACT relating to urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67A IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of urban-county governments may appoint as needed safety officers. Safety officers shall have such duties as prescribed by ordinance, which may include but not be limited to:

(a) Issuance of citations for violation of motor vehicle offenses as provided for in KRS chapters 186 and 189,provided that safety officers shall not have the authority to issue citations for moving violations.

(b) Issuance of citations for violation of any motor vehicle or traffic safety ordinance of the urban-county government wherein he has been appointed.

(c) Investigation and reporting of vehicle accidents, where a fatality is not involved, as provided for in KRS 189.645.

(d) Control and direction of traffic on public thoroughfares.

(e) Removal of vehicles in violation of state or local law consistent with such laws.

(2) The ordinance prescribing the duties of safety officers shall set out in particular the urban-county ordinances and the sections of KRS chapters 186 and 189 for which citation authority will exist.

(3) A safety officer may issue a citation for a misdemeanor or a violation committed in his presence as provided for in this section. The procedures for such citations shall be the same as provided in KRS 431.015.

(4) Safety officers appointed by authority of this section shall have only the limited powers as provided by this section and shall not have the powers of peace officers to make arrests or carry deadly weapons.

(5) Safety officers shall successfully complete one hundred twenty (120) hours of appropriate training certified by the Kentucky law enforcement council prior to being appointed as a safety officer.

(6) Safety officers shall be compensated and receive employment benefits as provided for by urban-county ordinance.

HCR 50, A CONCURRENT RESOLUTION relating to interstate highway maintenance.

WHEREAS, the Federal Government has aided states in the development of an interstate highway system, but has failed to provide funds for the maintenance of that system; and

WHEREAS, the states are forced to provide the majority of all the maintenance work to the highways and roads within the state; and

WHEREAS, the cost of materials and equipment necessary for state highway maintenance is escalating at alarmingly increasing rates; and

WHEREAS, many states' budgets for roads now reflect a shift in priorities from new construction to highway maintenance resulting from the increasing costs; and

WHEREAS, the states' road fund budget cannot adequately meet the demands for total state highway maintenance demands without additional assistance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the United States Congress pass legislation which would return one cent (1¢) per gallon of the Federal gasoline tax to the states for the purpose of highway maintenance of the interstate system.

Section 2. That a copy of this resolution be sent to the Secretary of the United States Department of Transportation, the Kentucky Congressional Delegation and the President of the United States.

SB 114, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.410 is amended to read as follows:

(1) Every person except those exempted by KRS 186.420 and KRS 186.430 shall before operating a motor vehicle upon a highway secure an operator's license as provided in this chapter.

(2) All original biennial, renewal and duplicate licenses for the operation of motor vehicles shall be issued by the department of transportation. *Applications for renewal licenses shall be made every two years during the birth month of the applicant.* No such license shall be issued until the application therefor has been certified by the department.

Section 2. KRS 186.412 is amended to read as follows:

(1) Every person seeking a license, *or a renewal of a license* for *the* operation of a motor vehicle, *motorcycle,* or a non-driver identification card shall apply in person to the circuit court clerk of the county in which *the applicant* [he] resides and *shall* make application upon a form furnished by the department *of transportation.* The application *form* shall contain *and shall require* the full *and legal* name and signature, date of birth, *social security number,* sex, [and] present resident address of the applicant and briefly describe *the applicant* [him]. It shall also state whether the applicant has previously been licensed as an operator and if so, when and by what state or county, whether any license has ever been canceled, suspended, revoked or refused, and if so, the date of and reason for the cancellation, suspension, revocation or refusal, and such other information as may be required.

(2) The department of transportation shall issue a plastic laminated operator's license bearing thereon a color photograph of the licensee, which photograph shall be taken by the circuit clerk in such a manner that one exposure will photograph the applicant and the application simultaneously, using the process determined under provisions of KRS 186.413.

(3) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(4) The clerk may, after determining that the applicant has fully complied with the law governing applications, issue a temporary operator's license to be valid for not more than ninety (90) days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent operator's license.

(5) [Every person seeking a license for operating a motorcycle shall apply in person to the circuit court clerk of the county in which he resides and make application in the same manner as in applying for a license for operation of a motor vehicle.

(6)] Every person seeking a color photo non-driver identification card may apply in person to the circuit clerk in the county in which he resides. Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained on the form.

(6) [(7)] Military personnel and other licensed drivers temporarily out-of-county may be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid

without photo."

(7) [(8)] The department shall provide on each license to operate motor vehicles or motorcycles issued a statement whereby the owner of such license may certify in the presence of two witnesses his willingness to make an anatomical gift under KRS 311.195.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the department of transportation shall be used to ascertain the driving history record of each person which is licensed to operate a motor vehicle within the Commonwealth; provided, however, that the files of the department of transportation shall not contain a record of any moving traffic conviction of any person which has occurred prior to June 21, 1974. The department of transportation shall destroy, and shall not maintain records of moving traffic convictions which are more than five years old, or, which shall have occurred prior to June 21, 1974, whichever period of time is lesser.

Section 4. KRS 187.410 is amended to read as follows:

(1) Upon the receipt of a certified copy of a judgment, the department shall forthwith suspend (except as provided in KRS 187.440) the license and registration and the nonresident's operating privilege of any person against whom such judgment was rendered.

(2) If the judgment creditor consents in writing, in such form as the department may prescribe, that the judgment debtor be allowed license and registration or nonresident's operating privilege, the same may be allowed by the department, in its discretion, for six (6) months from the date of such consent and thereafter until such consent is revoked in writing, notwithstanding default in the payment of such judgment, or of any instalments thereof prescribed in KRS 187.440 [, provided the judgment debtor furnishes proof of financial responsibility].

Section 5. KRS 187.420 is amended to read as follows:

Such license, registration and nonresident's operating privilege shall (except as provided in KRS 187.440) remain so suspended and shall not be renewed, nor shall any such license or registration be thereafter issued in the name of such person, including any such person not previously licensed, unless and until every such judgment is stayed, satisfied or discharged [, except that a discharge in bankruptcy shall not be deemed a satisfaction of such judgment, and until the said person gives proof of financial responsibility].

Section 6. KRS 189.285 is amended to read as follows:

(1) No person shall operate a motorcycle *on a highway*:

(a) Except when that person is in possession of a valid motorcycle operator's license; and

(b) Unless that person uses an approved eye-protective device, in the manner prescribed by the secretary of the department of transportation, at all times such vehicle is in motion; and

(c) Unless the motorcycle is equipped with a rear-view mirror.

(2) No person shall operate or ride as a passenger on a motorcycle:

(a) Except on a seat permanently attached to that vehicle and specifically designed to carry the operator or passenger in a safe manner; and

(b) Except when using a footrest permanently attached to that vehicle and specifically designed to carry that person in a safe manner; and

(c) Unless that person wears approved protective headgear, in the manner prescribed by the secretary of the department of transportation, at all times that the vehicle is in motion.

(3) The secretary of the department of transportation shall by regulation fix minimum standards for approved protective headgear and for approved eye-protective devices, and prescribe the manner in which they shall be used. *The secretary* [He] shall maintain and cause to be published a list of approved protective headgear and of approved eye-protective devices. *The secretary* [He] may prescribe by regulation minimum standards for other protective devices and require the use of those devices.

(4) As used in this chapter and KRS chapter 186, "motorcycle" means any motor driven vehicle having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and passengers ride in an enclosed cab.

Section 7. KRS 189.580 is amended to read as follows:

(1) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such

treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five in number.

(2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of his name, address and the registration number of the vehicle he is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his name, address and the registration number of the vehicle he is driving, or shall file a report with the local police department.

(3) The operator of a vehicle involved in an accident in subsection (1) or (2) above resulting in injury to or death of any person or in which total property damage of two hundred dollars or more is sustained shall, within *ten (10)* [twenty (20)] days, report the matter in writing to the department of *justice* [transportation].

(4) Whenever the operator of a vehicle is physically incapable of making a required accident report and there was another occupant in the vehicle at the time of the accident who is capable of making a report, that occupant shall make the report or cause it to be made.

(5) The state police may require the operator to file supplemental reports whenever the original report required by subsection (3), is, in its opinion, insufficient. It may also require witnesses of accidents to render reports to the state police.

Section 8. KRS 186.414, 187.320, 187.490, 187.500, 187.510, 187.520, 187.530, 187.540, 187.550, 187.560, and 187.570 are repealed.

The Committee on Judiciary-Statutes reported **HB 519** and **HB 605,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 519, AN ACT relating to recordability of mortgages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 382.330 is amended to read as follows:

No county clerk shall record a deed or deed of trust or mortgage covering real property by which the payment of any indebtedness is secured unless the deed or deed of trust or mortgage states the date and the maturity of the obligations thereby secured which have been already issued or which are to be issued forthwith. *In the case of obligations due on demand, the requirement of stating the maturity thereof shall be satisfied by stating that such obligations are "due on demand."*

HB 605, AN ACT relating to special local peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 61.360 IS RE-ENACTED TO READ AS FOLLOWS:

(1) The governor or his agent may appoint special local peace officers, for such time as he deems necessary, to preserve the peace and protect the property of any person from waste or destruction, provided, however, that no such peace officer(s) shall be actively employed at any factory, mine, workshop, retail establishment, or at any other location where a strike, a slow down, a sit in, or any other type of work stoppage exists, if the employment of such peace officer(s) would result in: the unreasonable expansion of the normal complement of such peace officers, the relieving of normal guards or peace officers to perform other duties, or the inception of such services. Upon the application of an owner of property for such services, and upon payment of a fee of ten dollars ($10) for each officer to be appointed, the governor may immediately appoint the person recommended by the owner, if the person is eligible. No person shall be eligible for appointment under this section unless he has established to the satisfaction of the governor that he possesses the qualifications prescribed for nonelective peace officers by KRS 61.300. The governor may remove any officer so appointed at will or at the request of the owner of the property.

(2) The duties of the officer shall be confined to the premises of the property to be protected, except while in pursuit of a person fleeing from the property after committing an act of violence or destruction of the property. In that case, the officer may pursue the person and make arrest anywhere within this state. He may

wear such badges and insignia as will plainly indicate to the public that he is a special local peace officer, but he shall not, in any event, wear any uniform, or any part thereof, of any public police officer; nor shall he in any way impersonate a public police officer or represent himself to any person or persons as being a public police officer; nor shall he perform any of the duties of a public police officer, except those specifically herein granted and at the places herein specifically designated.

(3) Application fees shall be placed in the state treasury and credited to a revolving fund for administrative expenses.

(4) Every special local peace officer appointed pursuant to this section shall execute bond in the amount of five thousand dollars ($5,000).

Section 2. KRS 61.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 61.092 to 61.096, upon conviction, shall be punished by confinement in the penitentiary for not less than six (6) months, nor more than two (2) years, or fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or both, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(2) Any person who violates any of the provisions of KRS 61.360 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.

Section 3. KRS 61.928 is repealed.

Section 4. Whereas legislation enacted at the 1976 Regular Session of the General Assembly revoked the commissions of all special local peace officers effective January 1, 1977, which was an undesirable effect of that legislation, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to **HB 605** is as follows:

Amend printed copy of **HB 605,** page 1, line 13, after the words "peace officers," insert the word "*or*"

on lines 14 and 15 after the word "duties" delete the comma and the phrase "or the inception of such services" by bracketing the same.

The Committee Amendment No. 2 to **HB 605** is as follows:

Amend printed copy of **HB 605,** page 3, delete all of lines 17 through 23 by bracketing the same.

The Committee Amendment No. 3 to **HB 605** is as follows:

Amend printed copy of **HB 605,** page 2, line 1, after the word "the", delete the phrase "qualifications prescribed for nonelective peace officers by KRS 61.300." by bracketing the same, and substituting in lieu thereof the following:

following qualifications:

(1) No person shall serve as a special local peace officer:

(a) Unless he is a citizen of the United States, is twenty-one years (21) of age or over, and unless he is able to read and write;

(b) Unless he has resided in the county wherein he is appointed to serve for a period of at least one (1) year;

(c) Who has ever been convicted of or is under indictment for a crime involving moral turpitude, dishonesty or fraud; unauthorized divulging or selling information or evidence; impersonation of a law enforcement officer or employee of the United States or any state or political subdivision thereof; illegally using, carrying or possing a firearm or dangerous weapon; habitual drunkenness; using or selling or possessing narcotics; or who has been adjudged mentally incompetent by a court of competent jurisdiction and such adjudication has not been set aside; or has renounced his citizenship, or being an alien, is illegally or unlawfully in the United States;

(d) Who within a period of two (2) years has hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute;

(e) Unless he has filed his photograph with the county clerk of the county in which he is to serve, together with his affidavit stating his full name, age and residence address and that he is not prohibited from serving by this section.

(2) The photograph so filed with the county clerk shall constitute a public record.

The Committee on Labor and Industry reported **HB 270, HB 275, HB 290, HB 293, HB 312, HB 573, HB 629,** and **SB 148** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 270, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.730 is amended to read as follows:

(1) Income benefits for disability shall be paid to the employe as follows, subject to the maximum and minimum limits specified in KRS 342.740:

(a) For total disability, *one hundred percent (100%)* [sixty-six and two-thirds percent (66$^{2}/_{3}$ %)] of his average weekly wage during such disability.

(b) In all other cases of permanent partial disability, including any disfigurement which will impair the future usefulness or occupational opportunities of the injured employe, or employe disabled by an occupational disease, income benefits shall be determined according to the percentage of disability, taking into account, among other things, any previous disability, the nature of the physical injury or disfigurement, the occupation of the injured employe and age at the time of injury or at the time the disability from an occupational disease began. The income benefits paid therefor shall be *one hundred percent (100%)* [sixty-six and two-thirds percent (66$^{2}/_{3}$ %)] of the average weekly earnings of the employe at the time of his injury , subject to the limitations contained in KRS 342.740, multiplied by the percentage of disability caused by the injury or occupational disease; provided, however, the individual entitled to benefits under permanent partial disability shall be entitled to income benefits based on lost wages or body functional disability benefits, whichever is greater notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability.

(c) For total permanent bodily loss or losses herein scheduled, after and in addition to the income benefits payable during the period of recovery, scheduled income benefits in the amount of *one hundred percent (100%)* [sixty-six and two-thirds percent (66$^{2}/_{3}$ %)] of the average weekly wage as follows:

BODILY LOSS	WEEKS OF DISABILITY
1. Arm	340
2. Leg	340
3. Hand	312
4. Foot	216
5. Thumb	86
6. Index finger	54
7. Middle finger	43
8. Ring finger	22
9. Little finger	16

10. Great toe	30
11. Second toe	20
12. Third toe	15
13. Fourth toe	8
14. Fifth toe	5
15. Total loss of binaural hearing	156
16. Total loss of vision of one eye	150
17. Total loss of bilateral vision	520
18. Total loss, or total loss of use, of both hands, both arms, both feet or both legs	520

19. Phalanges: For loss of distal phalanx, one-half of the income benefits for loss of the entire digit. For loss of more than the distal phalanx of a digit, the same as loss of the entire digit.

20. Two or more digits: For loss of two or more digits, or one or more phalanges of two or more digits, of a hand or foot, scheduled income benefits may be proportioned to the loss of use of the hand or foot occasioned thereby, but shall not exceed the scheduled income benefits for loss of a hand or foot.

21. Total loss of use: Scheduled income benefits for permanent total loss of use of a member shall be the same as for loss of the member.

22. Partial loss or partial loss of use: Scheduled income benefits for permanent partial loss of use of a member shall be for a period proportionate to the period benefits are payable for total loss or total loss of use of the member as such partial loss bears to total loss.

23. Loss of hearing or partial loss of bilateral vision: Scheduled income benefits for partial loss of vision in one or both eyes, or total loss of hearing in one ear, or partial loss of hearing in one or both ears shall be for a period proportionate to the period benefits are payable for total bilateral loss of vision or total binaural loss of hearing as such partial loss bears to total loss. The provisions of paragraphs (d) to (h) of subsection (2) of this section shall apply to scheduled losses of hearing.

24. In any case in which there shall be a loss or loss of use of more than one member or parts of more than one member set forth in subparagraphs 1. to 23. of this subsection, scheduled income benefits shall be for the loss of use of each such member or part thereof, with the periods of benefits to run consecutively.

25. Other losses: Proper and equitable scheduled income benefits shall be paid for serious permanent disfigurement of face, head, neck or other area normally exposed and for loss or loss of function of a major member or organ when such disfigurement or loss is of a kind likely to handicap the employe in securing or holding employment.

26. In any case of total or partial loss of use of a member or organ, of hearing or vision, or in any case of disfigurement, determination of the period for which scheduled income benefits are payable shall not be made until the maximum of healing and of restoration function has been attained.

27. If the effects of any of the injuries, or disabilities, from occupational diseases, or losses, mentioned in this section adversely affect a workman's ability to labor, or limit his occupational opportunities to obtain the kind of work he is customarily able to do; his compensation benefits shall not be limited to the amounts provided by this section, and he shall be awarded compensation benefits under some other applicable or appropriate section of this chapter which would provide more compensation benefits for his disability.

(2) Occupational deafness means permanent partial or permanent total loss of hearing of one or both ears caused by prolonged exposure to harmful noise in employment. The following provisions shall apply exclusively to loss of hearing compensable under this subsection:

(a) No claim for scheduled income benefits shall be heard until the lapse of six full consecutive calendar months after the termination of exposure to harmful noise in employment. The time limitation for the filing of claims for occupational deafness shall not begin to run earlier than the day following the termination date of such six months' period. The time for filing claim as provided under this paragraph shall be applicable not only in respect of the last employer, but also in respect of any prior employer who may have liability to pay compensation for the occupational deafness.

(b) No employer shall be liable for the payment of scheduled income benefits for occupational deafness unless the employe claiming benefits shall have worked for such employer in employment exposing the employe to harmful noise for a total period of at least 90 days.

(c) An employer, otherwise liable under this subsection, whose employment has contributed to any extent to an employe's occupational deafness shall be liable for the full extent of the deafness of the employe, unless such employer shall establish by competent evidence (including the results of a professionally controlled hearing test) the extent of the employe's deafness as it existed prior to exposure to harmful noise in the employer's employment. Upon such showing the employer shall be liable to the employe only for the proportion of the deafness attributable to employment by him. An employer liable to the employe for the full extent of the employe's occupational deafness may implead, in a compensation proceeding on the employe's claim, any prior employer or employers in whose employment the employe had been exposed to harmful noise, and if it should be found that the impleaded employer would have been liable to the employe under this subsection, had the employe proceeded against him, under the claim being adjudicated, the employer held liable shall be entitled to an award against the impleaded employer. The impleading of an employer shall be accomplished by notice on a form prescribed by the board. Such notice shall be sent to the impleaded employer and to the board. An award may be made in favor of the employer liable to the employe, and against the impleaded employer or employers, which award may be enforced in the same manner as awards to employes. The impleaded employer or employers shall bear equal shares with the employer of the employer's liability to the employe, unless the evidence warrants a different apportionment.

(d) Losses of hearing due to industrial noise for compensation purposes shall be confined to the frequencies of 500, 1,000, and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second are not to be considered as constituting disability for hearing.

(e) The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, shall be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000, and 2,000 cycles per second. Pure tone air conduction audiometric instruments, approved by nationally recognized authorities in this field, shall be used for measuring hearing loss. If the losses of hearing average 15 decibels or less in the three frequencies, such losses of hearing shall not then constitute any compensable hearing disability. If the losses of hearing average 82 decibels or more in the three frequencies, then the same shall constitute and be a total or 100 percent compensable hearing loss.

(f) In measuring hearing impairment, the lowest measured losses in each of the three frequencies shall be added together and divided by three to determine the average decibel loss. For every decibel of loss exceeding 15 decibels an allowance of one and one-half percent shall be made up to the maximum of 100 percent which is reached at 82 decibels.

(g) In determining the binaural percentage of loss, the percentage of impairment in the better ear shall be multiplied by five. The resulting figure shall be added to the percentage of impairment in the poorer ear and the sum of the two divided by six. The final percentage shall represent the binaural hearing impairment.

(h) Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from non-occupational causes found in the population at any given age, there shall be deducted from the total average decibel loss, one-half decibel for each year of the employe's age over 40 at the time of last exposure to industrial noise.

(i) No consideration shall be given to the question of whether or not the ability of an employe to understand speech is improved by the use of a hearing aid.

(3) The period of any scheduled income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if scheduled income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the scheduled income benefits payable on account of the subsequent disability in whole or in part would duplicate the scheduled income benefits payable on account of the pre-existing disability.

(4) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of 18 or incapable of self-support; or

(b) If there are both such a widow or widower and such a child or children one-half to such widow or widower and the other half to such child or children; or

(c) If there is no such widow or widower but such a child or children, then to such child or children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

Section 2. KRS 342.740 is amended to read as follows:

(1) The minimum weekly income benefits for disability shall not be less than 20 percent (computed to the next higher multiple of $1.00) and the maximum weekly income benefit shall not exceed *100* [60] percent (computed to the next higher multiple of $1.00) of the average weekly wage of the state as defined herein. In any event, income benefits shall not exceed the average weekly wage of the injured employe.

(2) For the purposes of this chapter the average weekly wage of the state shall be determined by the board as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky unemployment insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve). The average annual wage thus obtained shall be divided by 52 and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the board by the department for human resources in a manner prescribed by the board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination.

(3) Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or death are increased or decreased by $1.00 or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by $2.00 or more computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect the increase or decrease, but no change in such limitations shall otherwise be made.

HB 275, AN ACT relating to workmen's compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.185 is amended to read as follows:

No proceeding under this chapter for compensation for an injury or death shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable after the happening thereof and unless a claim for compensation with respect to such injury shall have been made within two (2) years after the date of the accident, or in case of death, within two (2) years after such death, whether or not a claim has been made by the employe himself for compensation. Such notice and such claim may be given or made by any person claiming to be entitled to compensation or by someone in his behalf. If payments of compensation as such have been made voluntarily the making of a claim within such period shall not be required, but shall become requisite within *two (2) years* [one year] following the suspension of such voluntary payments or within two (2) years of the date of the accident, whichever is later.

HB 290, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall require an employe as a condition of employment to work at any gainful occupation more than ten (10) hours in any one day, or more than fifty (50) hours in any one week, unless the employe acknowledges his or her desire to do so in writing.

(2) No employer shall discharge an employe for refusing to work more than ten (10) hours in any one day or more than fifty (50) hours in any one week.

(3) No employer shall discriminate in any manner against an employe who refuses to work more than ten (10) hours in any one day or more than fifty (50) in any one week.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall not be construed to negate any provision of a collective bargaining agreement or a mutual agreement between the employer and employe.

SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

If an employe is discharged for refusing to work more than ten (10) hours in any one day or more than fifty (50) hours in any one week, the employer shall reinstate the employe and pay him an amount equal to two times all wages he would have earned from the date of his discharge to the date of his reinstatement and any applicable salary adjustments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:
Police officers and fire fighters are exempted from the provisions of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:
Any person who violates the provisions of this Act shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) for the first offense, and not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each subsequent offense.

HB 293, AN ACT relating to deductions from wages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.060 is amended to read as follows:
No employer shall withhold from any employe any part of the wage agreed upon. [In case of any wage agreement arrived at through collective bargaining, no employer shall wilfully with intent to defraud any person, withhold from any employe any part of the wage agreed upon.] This section shall not make it unlawful for an employer to withhold or divert any portion of an employe's wage when the employer is authorized to do so by state or federal law or when a deduction is expressly authorized in writing by the employe to cover insurance premiums, hospital and medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, nor shall it preclude deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employes or their representative.

HB 312, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.380 is amended to read as follows:
(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the commission. Claims for all payments of benefits shall be made in accordance with regulations of the commission.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one twenty-third of his base-period wages in that calendar quarter of his base period in which such wages were highest, except that no worker's weekly benefit rate shall be less than twelve dollars nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the commissioner shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve, into the total wages reported by such employers for such calendar year and dividing by fifty-two. *Sixty-six and two-thirds percent (66 2/3 %)* [Fifty percent (50%)] of the amount thus obtained, adjusted to the nearest multiple of one dollar, shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six times his weekly benefit rate or (b) one-third of his base-period wages, except that no worker's maximum amount shall be less than fifteen times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar, shall be adjusted to the nearest multiple of one dollar.

HB 573, AN ACT relating to establishing a state labor-management advisory council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
(1) There is hereby created the Commonwealth of Kentucky labor-management advisory council which shall consist of eighteen (18) members. One (1) member of the council shall be the commissioner of labor, and one (1) member shall be the commissioner of commerce, who shall be ex officio non-voting members of the

council. The other members of the council shall be appointed by the governor for terms of four (4) years and until their successors have been appointed and have qualified.

(2) Vacancies shall be filled by appointment by the governor for the unexpired term of the member whose office is vacant and the appointment shall be made within sixty (60) days of the occurrence of the vacancy.

(3) In making appointments to the council, the governor shall appoint eight (8) members representing management and eight (8) members representing labor. The commissioner of labor shall serve as chairman of the council.

(4) The council shall meet at least two (2) times each year and at other times on call of the chairman or a majority of the members. Nine (9) members of the council shall constitute a quorum for the transaction of business.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) The council shall function as an advisory agent of state government and provide leadership and assistance for labor and management in this state, and shall serve to effect improved labor-management relations within the state, and to thereby attract and encourage new and existing industry in this state.

(2) The council shall not infringe upon or assume the responsibilities, duties or functions of the department of labor or department of commerce. The council may make recommendations to the governor and the legislature on matters relating to labor-management problems in this state and any other matter it deems necessary.

(3) Meetings of the council may be held at any location in this state; however the principal office of the council will be located in Frankfort, Kentucky.

(4) The commissioner of labor shall supply necessary staff and supplies to the council as well as funds for reimbursing each member for reasonable and necessary expenses incurred as a result of attending council meetings, and he shall act as the executive secretary of the council.

HB 629, AN ACT relating to unemployment compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.380 is amended to read as follow:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one twenty-third of his base-period wages in that calendar quarter of his base period in which such wages were highest, except that no worker's weekly benefit rate shall be less than twelve dollars nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve, into the total wages reported by such employers for such calendar year and dividing by fifty-two. *Sixty percent (60%)* [Fifty percent] of the amount thus obtained, adjusted to the nearest multiple of one dollar, shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six times his weekly benefit rate or (b) one-third of his base-period wages, except that no worker's maximum amount shall be less than fifteen times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar, shall be adjusted to the nearest multiple of one dollar.

SB 148, AN ACT relating to wage discrimination.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.420 is amended to read as follows:

(1) "Employe" means any individual employed by any employer, including but not limited to individuals employed by the state or any of its political subdivisions, instrumentalities, or instrumentalities of political subdivisions.

(2) "Employer" means a person who has *one (1)* [eight (8)] or more employes within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3) "Wage rate" means all compensation for employment, including payment in kind and amounts paid by employers for employe benefits, as defined by the commissioner in regulations issued under KRS 337.420 to 337.433 and 337.992.

(4) "Employ" includes to suffer or permit to work.

(5) "Occupation" includes any industry, trade, business or branch thereof, or any employment or class of employment.

(6) "Commissioner" means the commissioner of labor.

(7) "Person" includes one or more individuals, partnerships, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Section 2. KRS 337.423 is amended to read as follows:

(1) No employer shall discriminate between employes in the same establishment on the basis of sex, by paying wages to any employe in any occupation in this state at a rate less than the rate at which he pays any employe of the opposite sex for comparable work on jobs which have comparable requirements relating to skill, effort and responsibility. Differentials which are paid pursuant to established seniority systems or merit increase systems, which do not discriminate on the basis of sex, are not within this prohibition [provided, however, that nothing in KRS 337.420 to 337.433 and 337.992 shall apply to any employer who is subject to the federal fair labor standards act of 1938, as amended, when that act imposes comparable or greater requirements than contained in KRS 337.420 to 337.433 and 337.992 and when said employer files with the commissioner of the department of labor a statement that said employer is covered by the federal fair labor standards act of 1938, as amended].

(2) An employer who is paying a wage differential in violation of KRS 337.420 to 337.433 and 337.992 shall not, in order to comply with it, reduce the wage rates of any employe.

(3) No person shall cause or attempt to cause an employer to discriminate against any employe in violation of KRS 337.420 to 337.433 and 337.992.

(4) No employer may discharge or discriminate against any employe by reason of any action taken by such employe to invoke or assist in any manner the enforcement of KRS 337.420 to 337.433 and 337.992.

The Committee on Highways and Traffic Safety reported **HB 413** with Committee Amendment attached thereto, **HB 584** with Committee Amendment attached thereto, and **SB 118** with Committee Amendment attached thereto, and **SB 118** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 413, AN ACT relating to highway construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 176.150 is amended to read as follows:

(1) No bidder shall be given a certificate of eligibility unless his financial statement and the investigation made by the bureau show that he possesses net current assets or working capital sufficient in the judgment of the bureau to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. *This determination shall also be based, in part, on the applicant's ability to execute the contracts on which he bids within the limits of the current fiscal year. In all cases, the applicant's performance on construction contracts the previous fiscal year, with allowances made for company growth, shall be considered before a certificate of eligibility is issued.* All applications for certificates shall expressly authorize the bureau to obtain all information which it deems pertinent with respect to the financial status, assets and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all such persons to furnish any such information requested from them by the bureau.

(2) Certificates of eligibility shall be issued without reference to the residence of applicants and the rules and regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.

(3) When the applicant is a foreign corporation the application shall be accompanied by a certificate from the secretary of state that such corporation is authorized to do business in the state in which it is incorporated.

The Committee Amendment to **HB 413** is as follows:

Amend printed copy of **HB 413,** page 1, line 15, after the word "issued." insert the following:

"Any new construction contractor may be approved for bidding upon proper certification by the department of transportation which shows that he possesses net current assets or working capital sufficient in the judgment of the bureau to render it probable that he can satisfactorily execute his contracts and meet obligations there incurred. When the bureau determines the contractor awarded cannot complete the approved contract the department shall have the authority to give the contract to the next lowest bidder at the bid first awarded— if he chooses to accept.

HB 584, AN ACT relating to traffic control devices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 179.070 is amended to read as follows:

The county engineer shall:

(1) Have general charge of all county roads and bridges within his county;

(2) See that county roads and bridges are improved and maintained as provided by law;

(3) Supervise the construction and maintenance of county roads and bridges and other work of like nature undertaken by the fiscal court;

(4) Make reports from time to time as the county or fiscal court directs;

(5) Advise and direct employes of contractors how best to repair, maintain and improve county roads and bridges;

(6) Examine the various formations and deposits of gravel and stone in his county to ascertain the materials most available and best suited for the improvement of roads therein, and, when requested by the bureau of highways, submit samples of such materials and deposits and make a written report concerning the materials;

(7) Establish or cause to be established necessary grades and recommend means of drainage, repair and improvement;

(8) Together with the fiscal court, consider and either reject or approve plans, specifications and estimates submitted for the erection or repair of bridges and the construction or maintenance of county roads;

(9) Inspect, or cause to be inspected, each county road or bridge during its construction or improvement, and certify to the fiscal court the progress of the work and whether or not the work is being done according to the contract, plans and specifications prepared therefor. If he finds that the work is not being done in accordance with the contract, plans and specifications, he may stop any further work thereunder until the fiscal court has inspected and passed upon it;

(10) Remove trees or other obstacles from the right of way of any publicly dedicated road when the tree or other obstacles become a hazard to traffic; and

(11) Make recommendation to municipal authorities in a county containing a city of the first class or the county court of a county containing a city of the first class for the establishment of speed limits by either in accordance with the powers granted to municipal authorities and the county court by KRS 189.390 (4) (a), and make recommendations to the county court for the establishment of parking restrictions by the county court in accordance with KRS 189.390 (4) (c);

(12) Make engineering and traffic investigations and make recommendations based thereupon to the fiscal court of counties containing a city of the first class for the adoption of traffic regulations for any publicly dedicated road in unincorporated portions of the county or for any road made a portion of a county through road system, established in accordance with KRS 178.330 or 178.333, or both, in any manner reasonably calculated to promote the safety and convenience of the traveling public and to protect and preserve the roads and streets. The fiscal court may adopt regulations which may include, but not be limited to, the establishment on roads, designated in the first sentence of this subsection of traffic lanes, the installation or removal of electric signals and other signs and markers, the removal of traffic bumps *unless said traffic bumps were installed as a result of the local government passing ordinance requiring such installation, as authorized by KRS 189.231(2),* the limitation or prohibition of parking, and the regulation or prohibition of a size or weight deemed likely to impede traffic or injure the streets; Provided, however, That if such regulation of size and weight of vehicles conflicts with state regulations, the latter shall prevail. Nothing herein shall be construed to prevent the fiscal court from contracting with city authorities for the joint installation of signs, markers, and electric signals and for their maintenance.

(13) In counties having the services of a county engineer every person, subdivider, builder, contractor or developer of any construction project shall submit to the county engineer for his written approval a site

development plan providing for the proper drainage of surface water from the development or construction site so as to prevent flooding of property in the area. If the proposed site plan does not adequately provide for such drainage the county engineer shall order such changes as necessary before approving the site plan.

Section 2. KRS 189.231 is amended to read as follows:

(1) The secretary of transportation, may restrict or regulate traffic and may install and maintain traffic control devices upon state-maintained highways in such manner as is reasonably necessary to promote the safety and convenience of the traveling public.

(2) *The local government may install traffic bumps to regulate traffic on roads other than state maintained highways within its jurisdictional boundaries. The local government shall be liable for damages to a vehicle, property, or bodily injury incurred as a result of the installation of traffic bumps.*

(3) The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto unless otherwise directed by traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle.

Section 3. KRS 189.337 is amended to read as follows:

(1) As used in this section "official traffic control devices" shall mean all signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or dividing traffic.

(2) The department of highways shall promulgate and adopt a manual of standards and specifications for a uniform system of official traffic control devices for use upon all roads and streets. The manual and its future revisions and supplements shall be applicable to all roads and streets under the control of the department of highways or any county or incorporated city.

(3) All traffic control devices installed on any road or street after the adoption of the manual shall conform to the provisions thereof. Satisfactory operating traffic devices in use on the date of the adoption of the manual may continue to be used, however, if such devices are replaced or revised, they must be replaced or revised in conformance with the provisions of the manual.

(4) "Traffic bumps" shall mean any traffic control device placed in the driving area or portion of the driving area of a roadway or street not exceeding four (4) inches in height and used to regulate the speed of vehicles.

The Committee Amendment to **HB 584** is as follows:

Amend printed copy of **HB 584,** page 4, line 26, after the word "bumps" insert the following:

"*(3) Upon installation of traffic bumps, the local government shall be required to post warning signs at a reasonable distance indicating installation of same and be responsible for costs of placement of such signs.*"

Page 5, line 1, subsection "*(3)*" becomes subsection "*(4)*".

SB 118, AN ACT relating to motor vehicles.

WHEREAS, in most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction, must either:

(1) Post collateral or bond to secure appearance for trial at a later date; or

(2) Be taken into custody until the collateral or bond is posted; or

(3) Be taken directly to court for his trial to be held; and

WHEREAS, in many instances, the motorist's operator's license is deposited as collateral to insure his compliance with the terms of the citation; and

WHEREAS, this is an onerous burden upon all law enforcement officers and interstate travelers as well; and

WHEREAS, the enactment of the Nonresident Violator Compact will enable residents of this Commonwealth to travel interstate among the several members of the Compact, and will further afford all law enforcement officers more time for public service;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

The secretary of the department of transportation, the commissioner of the bureau of vehicle regulation, or a duly authorized agent, is hereby authorized and directed to negotiate with other states for the purpose of developing and joining the "Nonresident Violator Compact." The bureau may promulgate regulations concerning the administration of such compact and shall prescribe the penalties and procedures for the required compliance.

Section 2. KRS 186.570 is amended to read as follows:

(1) The department or its agent designated in writing for that purpose may deny any person a license or may [immediately] suspend the license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, *subject to a hearing.* [with or without hearing, and with or without receiving a record of conviction of that person of a crime, whenever the department has reason to believe that:]

(2) The department or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the department shall notify the person in writing by mailing the notice to the person by first class mail to the last known residence address of the person, or, if the address is unknown, to the last known business address of the person. Such hearing shall be automatically waived if not requested within ten (10) days after receiving the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the department.

(3) The department or its agent designated for that purpose shall enforce the provisions of subsection (1) only after a hearing has been requested or waived and upon receiving a record of conviction of that person of a crime, whenever the department has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in death or injury or serious property damage.

(c) That person is afflicted with mental or physical infirmities rendering it unsafe for him to drive upon the highways.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and regulations properly issued pursuant to it.

(f) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(g) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(h) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(4) [(2)] The department may suspend the license of any resident upon receiving notice of the conviction of that person in another state of an offense there which if committed in this state would be grounds for the suspension or revocation of an operator's license. If a person so convicted is not the holder of a Kentucky license, the department shall deny him a license for the same period as if he had possessed a license and license had been suspended. The department may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the person so convicted is a resident. The Department of Transportation is forbidden from suspending or revoking a motor vehicle or motorcycle operator's license or assessing points or any other form of penalty against the holder thereof for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations and shall not apply to other motor vehicle offenses, nor shall this section apply to any new applicant for a Kentucky motor vehicle operator's license.

(5) [(3)] Each license which has been cancelled, suspended or revoked shall be surrendered to and retained by the department. At the end of the period of cancellation, suspension or revocation the license may be returned to the licensee.

The Committee Amendment to **SB 118** is as follows:

Amend printed copy of **SB 118,** page 2, line 19, place "]" after the word "hearing,";

Page 2, line 22, delete "]" after the word "that:";

Page 2, delete lines 23-26 in their entirety;

Page 3, delete lines 1-17 in their entirety;

Page 4, line 15, after the word "jurisdiction." insert the following:

"(2) The department or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation or withdrawal of their driving privileges, under provisions of this section, a hearing. Upon determining that such action is warranted, the department shall notify the person in writing by mailing the notice to the person by first class mail to the last known address of the person. Such hearing shall be automatically waived if not requested within twenty (20) dyas after the department mails the notice. The hearing shall be scheduled as early as practical within not to exceed twenty (20) days after receipt of such request at a time and place designated by the department.

Page 4, line 16, subsection "*(4)* [(2)]" becomes "*(3)* [(2)]";

Page 5, line 12, subsection "*(5)* [(3)]" becomes "*(4)* [(3)]";

The Committee on Judiciary-Statutes reported **HB 472,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 472, AN ACT relating to defrauding judgment creditors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 517.070 is amended to read as follows:

(1) A person is guilty of defrauding judgment creditors when he secretes, assigns, conveys or otherwise disposes of his property with intent to defraud a judgment creditor or to prevent that property from being subjected to payment of a judgment.

(2) Defrauding judgment creditors is a Class *C felony* [A misdemeanor].

The Committee Substitute to **HB 472** is as follows:

HB 472, AN ACT relating to defrauding judgment creditors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 517.070 is amended to read as follows:

(1) A person is guilty of defrauding judgment creditors when he secretes, assigns, conveys or otherwise disposes of his property with intent to defraud a judgment creditor or to prevent that property from being subjected to payment of a judgment.

(2) Defrauding judgment creditors is a Class A misdemeanor *unless the value of the property subject to the security interest is one hundred dollars ($100) or more, in which case it is a Class D felony.*

The Committee Amendment to the Committee Substitute to **HB 472** is as follows:

Amend printed copy of Committee Substitute for **HB 472,** page 1, by deleting the title and inserting in lieu thereof the following: "AN ACT relating to the Kentucky Penal Code."

The Committee on Health and Welfare reported **HB 13** with Committee Amendment attached thereto, **HB 154,** and **HB 493** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT relating to rights of children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 40.010 is amended to read as follows:

As used in this chapter, the following terms have the following respective meanings, unless another meaning is clearly required by the context:

(1) "Administrator" means the adjutant general of the commonwealth;

(2) "Veteran" means a person who served in the active armed forces of the United States, during the Spanish American War, World War I, World War II, or the Korean conflict, for a period of ninety (90) days or more (exclusive of time spent AWOL; or in penal confinement as a result of a sentence imposed by court-martial; or in service for which no allowance is made according to KRS 40.040), with some portion of service within the respective hereinafter prescribed dates, who is still in the armed forces, or was released, separated, discharged or retired therefrom under honorable conditions;

(3) "Duty in active armed forces" includes active duty, and any period of inactive duty training during which the individual concerned was disabled; and if a person in the active armed forces was released, separated or discharged therefrom by reason of disability incurred in line of duty before serving as much as ninety (90) days, such person shall be qualified for entitlement to a bonus payment under this chapter, notwithstanding failure to remain in service for the minimum time otherwise prescribed;

(4) "Armed forces" means the United States army, navy, marine corps, air force and coast guard, including the reserve components thereof on active duty;

(5) "Qualified veteran" means a person answering to the specifications set forth in subsections (2) and (3), and who

(a) Was a resident of the commonwealth at the time of entry into active service in the armed forces and for at least six (6) months prior thereto; and

(b) Who has not received a bonus or like compensation from another state; and

(c) Who is not subject to the forfeiture provisions of this chapter;

(6) "Resident of the commonwealth at the time of entry into the active service" means any person who gave the commonwealth of Kentucky, or any specific place in this commonwealth, as his or her place of residence at such time of entry, without regard to the place of enlistment, commission, or induction. Conclusive and exclusive, evidence of such giving of place of residence shall be the official records on file in the department of defense of the United States, or any official record thereof in the files of the veterans' administration of the United States; but if it be shown to the satisfaction of the administrator that for any reason no such record was made, or that the same has been lost, misplaced or destroyed, or that an authenticated copy thereof cannot be obtained within a reasonable time, other evidence of bona fide residence may be accepted if deemed sufficient by the administrator;

(7) "Resident," in any context other than as in subsection (6), means a legal resident as determined by generally established principles of law, as may be defined, and subject to proof, according to such regulations as the administrator may promulgate.

(8) "Beneficiary" means in this order, widow, child or children (sharing equally), mother, father, and no other;

(9)(a) "Widow" means a woman who was the wife of a veteran at the time of his death, and who had not deserted him (except where there was a separation which was due to the misconduct of, or procured by, the veteran without the fault of the wife), and who had not remarried, (unless the purported remarriage was void or had been annulled);

(b) The term "widow" also includes "widower" in the case of a man who was the husband of a female veteran at the time of her death;

(10) "Child" means a person

(a) Who is under the age of eighteen (18); or

(b) Who, before attaining the age of eighteen (18) years, became permanently incapable of self-support; or

(c) Who, after attaining the age of eighteen (18) years and until completion of education or training (but not after attaining the age of twenty-one (21) years) is pursuing a course of instruction at a bona fide educational institution; and who, in relationship to the veteran, is a [legitimate] child *born in lawful wedlock*; a legally adopted child; a stepchild who is a member of a veteran's household or was a member at the time of the veteran's death; or *a* [an illegitimate] child *born out of wedlock*, but, as to the alleged father, only if acknowledged in writing signed by him, or if he had, before his death, been judicially decreed to be the father of such child;

(11) "Mother" means a mother, a mother through adoption, or a woman who for a period of not less than one (1) year stood in the relationship of a mother to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last stood in such relationship before the veteran's last entry into active service in the armed forces;

(12) "Father" means a father, a father through adoption, or a man who for a period of not less than one (1) year stood in the relationship of a father to a qualified veteran before his or her entry into active service in the armed forces, or if two (2) persons stood in such relationship for one (1) year or more, the person who last

stood in such relationship before the veteran's last entry into active service in the armed forces;

(13) "In the continental United States" means any place in the District of Columbia and the states of the United States which are on the north American continent, exclusive of Alaska;

(14) "Outside the continental United States" means any place elsewhere than as defined in subsection (13);

(15) "Spanish-American War"

(a) Means the period beginning on April 21, 1898, and ending on July 4, 1902;

(b) Includes the Philippine Insurrection and the Boxer Rebellion; and

(c) In the case of a veteran who served with the United States military forces engaged in hostilities in the Moro Province, means the period beginning on April 21, 1898, and ending on July 15, 1903;

(16) "World War I"

(a) Means the period beginning on April 6, 1917, and ending on November 11, 1918; and

(b) In the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920; and

(c) Any service between April 6, 1917, and July 1, 1921, if some part thereof was between April 6, 1917, and November 11, 1918, both dates being inclusive;

(17) "World War II" means the period beginning December 7, 1941, and ending December 31, 1946;

(18) "Korean conflict" means

(a) The period beginning on June 27, 1950, and ending July 25, 1953; and

(b) Subsequent service until January 31, 1955, if the veteran was qualified for the Korean medal;

(19) "Bonus" and "veterans' bonus" means the compensation authorized by this chapter;

(20) "Bonus claim" means a claim or potential claim for a veterans' bonus;

(21) "Claimant" means one who seeks to obtain payment of a bonus claim.

Section 2. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The natural living parents of a child under eighteen (18), if the child is *born in lawful wedlock* [legitimate], and its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, if the child is born out of wedlock, provided that no natural parent need be made a party defendant in the event the parental rights of such parent have been terminated under KRS 199.600 to 199.630, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one;

(d) If the care, custody and control of the child has been transferred to the department, any other individual, institution or agency, then the department, such other individual, institution or agency shall be named a party defendant.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the department, individual, institution or agency has custody of such child, the service of process upon such child shall be had by serving a copy of the summons in such action upon the department, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's natural living parents, if the child is *born in lawful wedlock* [legitimate], or if the child is born out of wedlock, its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

Section 3. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a [legitimate] child *born in lawful wedlock* or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that such consent of the living parent or parents shall not be required if:

(a) Such parent or parents have been adjudged incompetent and such judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of such parents have been terminated under KRS 199.600 to 199.630; or

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS 199.600 and consent has been given by the parent having custody and control of the child.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for such parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the natural living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of subsections (1) or (2) of KRS 199.600 exist with respect to such child.

Section 4. KRS 199.520 is amended to read as follows:

(1) After hearing the case the court shall enter a judgment of adoption, if it finds that the facts stated in the petition were established; that all legal requirements, including jurisdiction, relating to the adoption have been complied with; that the petitioners are of good moral character, of reputable standing in the community and of ability to properly maintain and educate the child, and that the best interest of the child will be promoted by the adoption and that the child is suitable for adoption. In the judgment the name of the child shall be changed to conform with the prayer of the petition. The judgment and all orders required to be entered and recorded in the order book, including the caption, shall contain only the names of the petitioners and the proposed adopted name of the child, without any reference whatsoever to its former name or the names of its birth parents.

(2) Upon entry of the judgment of adoption, from and after the date of the filing of the petition, the child shall be deemed the child of petitioners and shall be considered for purposes of inheritance and succession and for all other legal considerations, the natural [, legitimate] child of the parents adopting it the same as if born of their bodies. Except where a natural parent is the spouse of an adoptive parent an adopted child from the time of adoption shall have no legal relationship to its birth parents in respect to either personal or property rights.

(3) The clerk of the court shall notify the department of any action of the court with respect to entering a judgment granting an adoption, the amendment of an adoption, or the denial or dismissal of a petition for adoption.

Section 5. KRS 199.600 is amended to read as follows:

(1) In a proceeding involving a neglected or abandoned child, as defined in KRS 199.011, the circuit court may terminate all parental rights of the parents of such child, and declare the child to be a ward of the state, and may vest the care, custody and control of the child in the department, or in any licensed child-caring or child-placing agency or institution, if facilities are available to receive the child, if it is pleaded and proved in a private hearing that the parents have abandoned or deserted the child, or have substantially or continuously or repeatedly neglected the child or refused to give the child parental care and protection, or that the child is neglected and that the parents have been adjudged mentally incompetent and such judgment has been in effect for not less than one year.

(2) If the circumstances described in subsection (1) of this section exist with respect to only one of the two legitimate parents, the parental rights of that parent may be terminated, in which case the child shall not be declared to be a ward of the state, unless with the voluntary consent of the other parent, or if one of the two legitimate parents has willfully, substantially and continuously refused for a period of at least one year to give or pay any support, the parental rights of that parent may be terminated immediately by order of the court, in which case the child shall not be declared a ward of the state, unless with the voluntary consent of the other parent.

(3) In an action to terminate parental rights under this section the parents, if the child is *born in lawful wedlock* [legitimate], or if the child is born out of wedlock, the mother and the father if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, must be personally summoned; or where personal service cannot be made, must be constructively summoned as provided in the Rules of Civil Procedure.

(4) In the event the infant is made party defendant to the action, the boarding home or foster parent shall not be served with summons notwithstanding provisions of CR 4.04(3).

(5) The court may be convened at any time wherever the judge thereof may be found within this judicial circuit, irrespective of the regular term for the purpose of terminating parental rights under this section, and shall complete the same as soon as possible.

(6) Proceedings under this section may be instituted upon petition by the department, any child-placing agency licensed by the department, any probation officer, any state or local law enforcement officer, any county or Commonwealth's attorney or parent.

(7) In the event a parent who is a defendant in an action for involuntary termination of parental rights is for financial reasons unable to obtain legal representation, the court shall appoint an attorney for such person if defendant requests counsel. The court may appoint counsel for any defendant under this statute if in the opinion of the court justice will be served. Unless the attorney appointed receives a salary or fee from another source, he shall be paid a reasonable fee for his services which shall be taxed as costs not to exceed $150.

(8) Unless one or both parents object thereto in writing within ten days after an abortion results in a live birth, the live born person shall become an abandoned ward of the state and the mother and father of such person shall have no parental rights or obligations whatsoever as relates to the abandoned, the same as if parental rights had been terminated pursuant to the provisions of KRS Chapter 199.

Section 6. KRS 199.605 is amended to read as follows:

(1) If a woman, after the birth of *a* [an illegitimate] child *out of wedlock*, should give birth to one or more [illegitimate] children *out of wedlock*, the department may institute action to terminate parental control of the minor children of that person. The fact of such multiple [illegitimate] births *out of wedlock* shall be prima facie evidence of the woman's unfitness to have the custody and control of said children, and if not rebutted may be considered sufficient evidence upon which to base a judgment terminating parental custody and control of such children.

(2) Action under this section shall be brought by the county attorney at the request of the department.

Section 7. KRS 342.085 is amended to read as follows:

As used in this chapter:

(1) "Child" includes stepchildren, legally adopted children, posthumous children and recognized [illegitimate] children *born out of wedlock*, but does not include married children unless actually dependent;

(2) "Brother" and "sister" includes stepbrothers, stepsisters and brothers and sisters of the half blood or by adoption, but excludes married brothers or sisters unless actually dependent;

(3) "Grandchild" includes children of adopted children or stepchildren, but excludes stepchildren of children or of adopted children and married children;

(4) "Parent" includes stepparents and parents by adoption; and

(5) "Adopted" and "adoption" include cases where the persons are legally adopted.

Section 8. KRS 391.090 is amended to read as follows:

(1) The estate of a *child born out of wedlock* [bastard] shall descend and be distributed in the same manner as that of a person born in lawful wedlock, except that the inheritance shall go to the mother and her kindred and not to the father and his kindred *unless prior to the child's death paternity was established in a legal action.*

(2) A *child born out of wedlock* [bastard] shall inherit only from his mother and his mother's kindred *unless prior to the father's death paternity was established in a legal action or the father had stated in an affidavit that he was the father of the child, in which case the child shall also inherit from his father and his father's kindred.*

(3) If a man who has had a child by a woman afterward marries her, the child or its descendants, if recognized by him before or after marriage, shall be deemed *as if born in lawful wedlock* [legitimate].

Section 9. KRS 391.100 is amended to read as follows:

[(1) The issue of a marriage found to be incestuous by the conviction of the party or by the judgment of a court during the lifetime of the parties is not legitimate.

(2)] The issue of all [other] illegal or void marriages is *considered as if born in lawful wedlock* legitimate].

Section 10. KRS 406.051 is amended to read as follows:

The district court has jurisdiction of an action brought under this chapter and all remedies for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, necessary support or funeral expenses for [illegitimate] children *born out of wedlock*. An appeal may be had to the circuit court if prosecuted within sixty days from the date of judgment. The court has continuing jurisdiction to modify or revoke a judgment for future education. All remedies under the uniform reciprocal enforcement of support act are available for enforcement of duties of support under this chapter.

The Committee Amendment to **HB 13** is as follows:

Amend printed copy of **HB 13**, page 1, line 11, by inserting after the word "conflict," the following words: "or the Viet-Nam War,"

HB 154, AN ACT relating to the use of amphetamines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.180 is amended to read as follows:

(1) Except when dispensed directly by a practitioner to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner, *provided however, no practitioner shall prescribe, administer, dispense, distribute, or transfer any amphetamine, its salts, optical isomers, and salts of its optical isomers, for use in dieting or any other anorectic use.* No controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

(2) Except when dispensed directly by a practitioner to an ultimate user, a controlled substance included in Schedules III, IV, and V, which is a prescription drug, shall not be dispensed without a written or oral prescription by a practitioner. All oral prescriptions shall be dated and signed by the pharmacist. A pharmacist refilling any prescription shall record on the prescription the date, the quantity and his initials. The prescription shall not be filled or refilled more than 6 months after the date thereof or be refilled more than 5 times, unless renewed by the practitioner and a new prescription, written or oral shall be required.

(3) All written prescriptions for controlled substances shall be dated as of and signed by the practitioner on the date when issued and shall bear the full name and address of the patient and the name, address and registration number of the practitioner. All prescriptions for controlled substances shall be retained for a period of two years.

(4) The pharmacist filling a written or oral prescription for a controlled substance shall affix to the package a label showing the date of filling, the pharmacy name and address, the serial number of the prescription, the name of the patient, the name of the prescribing practitioner and directions for use and cautionary statements, if any, contained in such prescription or required by law.

HB 493, AN ACT relating to inspections of mobile homes and recreational vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.600 is amended to read as follows:

(1) No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this state mobile homes or recreational vehicles unless they bear a seal of approval issued by and purchased from the office.

(2) Seals issued by the office shall be numbered and shall be affixed to the mobile home or recreational vehicle in a conspicuous place.

(3) Any dealer who has acquired a used mobile home or recreational vehicle without a seal, or one manufactured prior to June 21, 1974, shall apply to the office for a Class B seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for used mobile homes or recreational vehicles. Those mobile homes taken in trade having a Class A or Class B seal must be reinspected and certified. The existing Class A or Class B seal may be removed and a new Class B seal affixed or the new B seal may be applied over the existing seal. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public.

[(4) The owner of any mobile home or recreational vehicle purchased in another state and not bearing a seal of approval shall purchase a seal from the office. Application to purchase a seal of approval or a Class B seal shall be made to the licensure board.

(5) The licensure board shall make available suitable forms for application for seals of approval for new mobile homes and recreational vehicles or Class B seals for used ones.

(6) The clerk of the county in which a mobile home or recreational vehicle is sought to be registered after June 1, 1976, which was purchased out of Kentucky, shall require production of proof of purchase or a seal of approval as provided in subsection (4) of this section before registering or issuing a license for any such mobile home or recreational vehicle.]

The Committee Amendment to **HB 493** is as follows:

Amend printed copy of **HB 493,** page 2, line 4, by removing the bracket in front of subsection "(4)"

and on line 4, by inserting a bracket in front of the word "or"

and on line 5, by inserting a bracket after the word "vehicle"

and on line 14, by inserting a bracket in front of the word "or", and by inserting a bracket after the word "vehicle" and on line 19, by inserting a bracket in front of the word "or" and by inserting a bracket after the word "vehicle" and by deleting the bracket after the period after the word "vehicle".

Calendar

HB 325, HB 470, HB 491, HB 559, HB 632, SB 95, SB 225, HJR 79, HB 153, HB 372, HB 400, HB 458, HB 474, HB 492, HB 506, HB 514, HB 535, HB 570, HB 602, HB 628, HB 500, HB 582, HB 289, HB 528, HB 623, SB 94, HB 599, HB 642, SB 123, SB 236, HB 424, HB 264, HB 502, HB 609, HB 694 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Donnermeyer, **HJR 13**; Representative Guy, **HCR 99**; Representatives Imes, **HB 586, HB 587, HB 588, HB 589, HB 590, HB 591, HB 592, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598, HB 679, HB 743, HB 746**; Representative Kleier, **HB 717**; Representative Noe, **HB 72, HB 118, HB 162, HB 112, HB 217, HJR 42, HB 186, HCR 100**; Representative Plummer, **HB 614**, Representative B. Richardson, **HB 491**; Representative Riner, **HB 705**; Representative Romines, **HB 520, HB 749**; Representative F. Smith, **HB 517**; Representative Trevey, **HR 104.**

Representative Bruce requested that his name be withdrawn as a co-sponsor of **HB 717.**

The Clerk announced the filing of the Discharge Petition in regard to **HB 430.**

The Clerk announced the following meetings:

The Committee on Appropriations and Revenue, 9:00 a.m., Room A, March 2, 1978.

The Committee on Business Organizations and Professions, on adjournment, Room 305, March 2, 1978.

Representative Petty moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Petty moved that he be recorded as voting "yea" on **HB 399.** Agreed.

Representative Schmidt moved that the rules be suspended for the purpose of making a request in regard to a vote change. Agreed.

Representative Schmidt requested that his vote be changed from "nay" to "yea" on **HB 399.** Agreed.

Representative Priddy moved that the rules be suspended for the purpose of Introduction of and action on the following **HR 104:**

HR 104, by Representatives Priddy, Bendl, Bennett, Benson, Blythe, Boswell, Burch, Dunn, Guenthner, Haering, Hines, Holloway, Kidd, Kleier, Layman, Maynard, Nett, O'Brien, Pearman, Riner, Romines, Siemens, Williams, Wright, and Yates: A RESOLUTION relating to display and use of the United States flag.

HR 104, A RESOLUTION relating to display and use of the United States flag.

WHEREAS, the Stars and Stripes have majestically symbolized the honor and glory of the United States of America for more than 200 years; and

WHEREAS, brave men have fought and died on several occasions in defense of the nation and its people who proudly fly the flag in devotion to the principles of liberty and justice for all; and

WHEREAS, a Code of Etiquette for Display and Use of the U.S. Flag was drafted in 1923 and adopted by Congress in 1942; and

WHEREAS, the Code states that, among other things, the flag should be displayed near schools and official buildings on all days, weather permitting, but particularly holidays and other special occasions; that a citizen may fly the flag at any time between sunrise and sunset and at night on special occasions; that the flag should be hoisted briskly and lowered ceremoniously, and should never be allowed to touch the ground or floor; that, with few exceptions, no other flag should be displayed higher than or to the right of the United States flag; that persons should stand at attention and salute the flag when it passes in review, during hoisting or lowering ceremonies, when the National Anthem is played and during the Pledge of Allegiance; and that the flag should never be dipped to any person or thing, nor used as drapery of any sort, nor festooned, drawn back or up in folds, nor used for advertising purposes, nor as a receptacle for carrying anything, nor to cover a statue or monument;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby endorse the Code of Etiquette adopted by Congress and encourages all citizens of the Commonwealth to acquaint themselves with its provisions and to observe them whenever they have cause to display or use the United States flag.

Representative Priddy moved the adoption of **HR 104.**

HR 104 was adopted by voice vote.

Orders of the Day

HJR 13, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the Committee Amendment No. 1 to **HJR 13.** Agreed.

Representative Benson moved that **HJR 13,** as amended, be adopted.

Representative Little moved that **HJR 13,** as amended, be laid on the table.

On the roll call the vote was yeas 48-Adams, J. Allen, W. Allen, Blandford, Brown, Bruce, Burnette, Clapp, Craddock, Crupper, Davenport, Dawahare, DeMarcus, Deskins, Foster, Gay, Gray, Guenthner, Guy, Haering, Head, Holloway, Johnson, Jones, LeMaster, Little, Marcum, May, McKinney, Morris, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Rattliff, B. Richardson, P. Richardson, F. Smith, R. Smith, Stone, Tobin, Trevey, Turner, Van Horn, Wells, Wright. Nays 29-Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Burch, Carpenter, Clarke, Cyrus, DeFalaise, Dietz, Donnermeyer, Dunn, Hancock, Hines, Holbrook, Isler, Kenton, Lindsay, List, Mann, McNutt, Priddy, Schmidt, Siemens, Wilborn, Williams, Yates.

The motion that **HJR 13** be laid on the table was adopted.

HB 547 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 547:**

Amend printed copy of **HB 547,** page 62, by adding after line 22 the following language:

"Section 56. The statute reviser is directed to change the term "public service commission" to utility regulatory commission in those statutes where public service commission appears, and is in reference to duties assigned the utility regulatory commission in this Act. The statute reviser is directed to substitute energy regulatory commission for public service commission in those statutes referring to duties assigned the energy regulatory commission by this Act. In statutes relating to administrative organization, bonding and any matters not specifically assigned to one of the two commissions in this Act, the statute reviser shall substitute both energy regulatory commission and utility regulatory commission in statutes where public service commission now appears."

and on line 23, page 62 by striking "56" and inserting in lieu thereof "57".

Representative B. Richardson moved that **HB 547,** as amended, be passed.

On the roll call the vote was yeas 77-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holloway, Imes, Isler, Jones, Kenton, Kidd, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McNutt, Morris, Noe, O'Brien, Overstreet, Patrick, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Romines, Sale, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 9-W. Allen, Burnette, Crupper, Guenthner, Holbrook, Johnson, Layman, Pearman, Plummer.

HB 547, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 547,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 93 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 93** be passed. Representative Gray moved that **HB 93** be laid on the table.

On the roll call the vote was yeas 40-J. Allen, W. Allen, Beshear, Burnette, Clapp, Clarke, Cyrus, DeFalaise, DeMarcus, Dietz, Dunn, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Johnson, Jones, Layman, Lindsay, List, Little, McKinney, McNutt, Overstreet, Patrick, Rattliff, Sale, Stewart, Stone, Trevey, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright. Nays 38-Adams, Arnold, Bendl, Benson, Blythe, Boatwright, Boswell, Brinkley, Burch, Craddock, Crupper, Davenport, Donnermeyer, Fitzgerald, Hancock, Holloway, Hurst, Imes, Isler, LeMaster, Mann, Marcum, May, Morris, Nett, Noe, Pearman, Petty, Plummer, Priddy, Richards, P. Richardson, Schmidt, F. Smith, Thomas, Tobin, Turner, Yates.

The motion that **HB 93** be laid on the table was adopted.

Representative B. Richardson moved that consideration of **SB 60** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 79, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 79.** Agreed.

Representative Bendl moved the adoption of the following Floor Amendment No. 1 to the Committee Substitute to **HB 79:**

Amend printed copy of Committee Substitute to **HB 79,** page 1, lines 1-16, by deleting Section 1 in its entirety and on line 17 by renumber Section 2 as Section 1.

Agreed.

Representative Bendl moved that **HB 79,** by way of Committee Substitute as amended, be passed.

Representative Patrick moved that **HB 79,** by way of Committee Substitute as amended, be laid on the table.

On the roll call the vote was yeas 30-W. Allen, Boatwright, Brinkley, Burnette, Clapp, Cyrus, Davenport, DeMarcus, Deskins, Gay, Gray, Guy, Holbrook, Hurst, Imes, Layman, Lindsay, Little, Marcum, McKinney, Noe, Overstreet, Patrick, Plummer, Rattliff, Schmidt, R. Smith, Stone, Turner, Van Horn. Nays 48-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Carpenter, Clarke, Craddock, Crupper, Dietz, Donnermeyer, Dunn, Foster, Guenthner, Haering, Hancock, Hines, Holloway, Isler, Johnson, Kidd, Kleier, LeMaster, List, Mann, May, McNutt, Nett, Pear, Petty, Richards, P. Richardson, Sale, Siemens, Stewart, Thomas, Tobin, Trevey, Weinberg, White, Wilborn, Williams, Wright, Yates.

The motion that **HB 79,** by way of Committee Substitute as amended, be paid on the table was rejected.

On the roll call the vote was yeas 46-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Burch, Carpenter, Crupper, Dawahare, Dietz, Donnermeyer, Dunn, Fitzgerald, Hancock, Hines, Holloway, Isler, Johnson, Kidd, Kleier, LeMaster, List, Mann, May, McNutt, Nett, Noe, O'Brien, Pearman, Priddy, P. Richardson, Sale, Siemens, Stewart, Stone, Thomas, Tobin, Trevey, Weinberg, Wilborn, Williams, Yates. Nays 42-Adams, W. Allen, Boatwright, Brown, Bruce, Burnette, Clapp, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Gay, Gray, Guenthner, Guy, Haering, Head, Holbrook, Hurst, Imes, Jones, Layman, Lindsay, Little, Marcum, McKinney, Morris, Patrick, Plummer, Rattliff, Richards, B. Richardson, Riner, Schmidt, R. Smith, Turner, Van Horn, Wells, Worthington, Wright.

HB 79, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 79,** by way of Committee Substitute as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 356 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 2 to **HB 356:**

Amend printed copy of **HB 356,** page 2, line 15, by deleting "auditor of public accounts" and inserting in lieu thereof "registry of election finance";

and on page 2, lines 19 and 20, by deleting "and the registry of election finance";

and on page 2, line 20, by deleting "auditor" and inserting in lieu thereof "registry";

and on page 2, line 26, by deleting "auditor" and inserting in lieu thereof "registry".

Agreed.

Representative Beshear moved that **HB 356,** as amended, be passed.

On the roll call the vote was yeas 74-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Burch, Carpenter, Clapp, Clarke, Craddoc, Cyrus, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McNutt, Nett, Noe, O'Brien, Overstreet, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 11-J. Allen, Bruce, Burnette, Crupper, Davenport, DeMarcus, Hancock, Morris, Patrick, Pearman, Rattliff.

HB 356, as amended, was passed and the title agreed to.

Representative Beshear moved that the vote by which **HB 356,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 392, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blythe moved the adoption of the Committee Substitute to **HB 392.** Agreed.

Representative Blythe moved that **HB 392,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 70-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Burch, Burnette, Clarke, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, List, Little, Mann, Marcum, McKinney, Nett, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wilborn, Williams, Worthington, Wright, Yates. Nays 11-Bruce, Carpenter, Craddock, Crupper, Donnermeyer, Foster, LeMaster, Lindsay, Noe, Petty, B. Richardson.

HB 392, by way of Committee Substitute, was passed and the title agreed to.

Representative Blythe moved that the vote by which **HB 392,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 405** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 416, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of the Committee Amendment No. 1 to **HB 416.** Agreed.

Representative Nett moved that **HB 416,** as amended, be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, Sale, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Wells, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 416, as amended, was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 416,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 439 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Layman moved that **HB 439** be passed.

On the roll call the vote was yeas 86-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Van Horn, Weinberg, Wilborn, Williams, Wright, Yates. Nays 2-Overstreet, Worthington.

HB 439 was passed and the title agreed to.

Representative Layman moved that the vote by which **HB 439** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 441 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 441** be passed.

On the roll call the vote was yeas 85-Adams, W. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May,McKinney, McNutt, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stewart, Stone, Tobin, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Lindsay.

HB 441 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 441** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 483 taken from the Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 483** be passed.

On the roll call the vote was yeas 73-Adams, J. Allen, Bennett, Beshear, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay,Gray, Guenthner, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Isler, Johnson, Jones, Kenton, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Richards, B. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 11-W. Allen, Burnette, Hancock, Imes, Kidd, Layman, McNutt, Plummer, P. Richardson, Tobin, Trevey.

HB 483 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 483** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 498 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved that **HB 498** be passed.

On the roll call the vote was yeas 71-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brinkley, Brown, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Isler, Johnson, Kenton, Kidd, Kleier, LeMaster, List, Little, Marcum, May, McKinney, McNutt, Noe, O'Brien, Overstreet, Patrick, Petty, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 11-W. Allen, Boswell, Burnette, Crupper, DeMarcus, Head, Imes, Layman, Lindsay, Pearman, Plummer.

HB 498 was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 498** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 515** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 523 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved that **HB 523** be passed.

On the roll call the vote was yeas 74-Adams, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Deskins, Dietz, Dunn, Fitzgerald, Guenthner, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Imes, Isler, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 523 was passed and the title agreed to.

Representtive Benson moved that the vote by which **HB 523** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 603, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **HB 603.** Agreed.

Representative B. Richardson moved that **HB 603,** as amended, be passed.

On the roll call the vote was yeas 87-Adams, J. Allen, W. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 1-Lindsay.

HB 603, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 603,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 616 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 616** be passed.

On the roll call the vote was yeas 85-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Imes, Isler, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Mann, Marcum, McKinney, McNutt, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Sale, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 616 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 616** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker vacated the Chair.

The Speaker Pro Tempore presiding.

SB 60 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkley moved that **SB 60** be passed.

On the roll call the vote was yeas 53-Bendl, Bennett, Beshear, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burnette, Carpenter, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Head, Hines, Holbrook, Holloway, Hurst, Imes, Isler, Johnson, Kidd, Kleier, Lindsay, Little, Mann, McNutt, O'Brien, Petty, Priddy, B. Richardson, Riner, Romines, Schmidt, Stewart, Stone, Van Horn, Wells, Wilborn, Williams, Worthington, Yates. Nays 15-W. Allen, Benson, Craddock, Crupper, Hancock, Layman, LeMaster, List, Marcum, Plummer, Richards, P. Richardson, Trevey, Weinberg, Wright.

SB 60 was passed and the title agreed to.

Representative Brinkley moved that the vote by which **SB 60** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 405, with Committee Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of the following Floor Amendment No. 2 to **HB 405:**

Amend printed copy of **HB 405,** pages 24-26, line 16, by deleting Section 9 in its entirety;

and on page 26, line 10, by renumbering Section 10 as Section 9.

Agreed.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 405.** Agreed.

Representative Imes moved the adoption of Committee Amendment No. 2 to **HB 405.** Agreed.

Representative B. Richardson moved the adoption of the Committee Amendment No. 3 to **HB 405.** Agreed.

Representative Hancock moved the adoption of the following Floor Amendment No. 3 to **HB 405:**

Amend printed copy of **HB 405,** page 24, on line 8, by inserting "*(1)*" at the beginning of line 8; and after line 15 and before line 16, by inserting the following:

"*(2) Any state employe who is subject to the provisions of KRS Chapter 18 and who serves on a jury in any duly constituted local, state or federal court shall be granted leave with full compensation for the period of his actual jury service, which shall be in addition to all other leave to which the employe may be entitled.*"

Agreed.

Representative B. Richardson moved that **HB 405,** as amended, be passed.

On the roll call the vote was yeas 53-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Donnermeyer, Dunn, Foster, Gay, Guy, Hancock, Hines, Hurst, Imes, Isler, Kidd, Layman, Little, McKinney, Noe, O'Brien, Patrick, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Romines, Sale, Siemens, F. Smith, Stone, Thomas, Tobin, Wells, Wilborn, Williams, Worthington, Yates. Nays 13-W. Allen, Beshear, Brown, Cyrus, Dawahare, DeMarcus, Deskins, Gray, Holbrook, Pearman, Robinson, R. Smith, Van Horn.

HB 405, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 405**, as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Announcements

The Clerk announced the filing of the Discharge Petition in regard to **HB 254.**

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions.

Floor Amendment No. 3 to Committee Substitute to **HB 87** by Representative Blythe.

Floor Amendment No. 4 to Committee Substitute to **HB 87** by Representative Fitzgerald.

Floor Amendment No. 5 to Committee Substitute to **HB 87** by Representative Benson.

Floor Amendment No. 1 to Committee Substitute to **HB 253** by Representative Fitzgerald.

Floor Amendment No. 1 to **HB 254** by Representative Tobin.

Floor Amendment No. 1 to Committee Substitute to **HB 289** by Representative Pearman.

Floor Title Amendment to **HB 539** by Representative Weinberg.

Floor Amendment No. 1 to **HB 539** by Representative Weinberg.

Floor Amendment No. 1 to **HB 567** by Representative Rattliff.

Floor Amendment No. 1 to **SB 35** by Representative Brown.

Report of Enrolled Bills

The Committee on Enrollment reported **SB 74, SB 181, SB 33,** and **SB 64** have been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

HB 90 delivered to the Senate, signed by President. Ordered delivered to the Governor.

Introduction of Bills and Resolutions

HB 760, by Representative Kenton: AN ACT relating to taxation.

HB 761, by Representatives Kenton, B. Richardson, Wells, Clapp, and Clarke: AN ACT relating to bills and resolutions presented to the General Assembly.

HB 762, by Representative Kleier: AN ACT relating to the physically handicapped.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 317, HB 229, HB 645.**

Labor and Industry: **SB 224.**

Education: **HB 485.**

Health and Welfare: **SB 172, SJR 27, HJR 96.**

State Government: **HCR 90, HCR 87, SB 59, HB 755, HJR 89, HB 699.**

Judiciary-Statutes: **HB 692, HB 611.**

Counties and Special Districts: **HB 45, HB 729.**

Report of Committees

The Committee onState Government reported **HR 43, HB 321, HB 449** with Committee Substitute attached thereto, **HB 463** with Committee Amendment attached thereto, **HB 465, HB 468** with Committee Amendment attached thereto, **HB 640, HB 647, HB 648, HB 660, HB 661, HB 675, HCR 17, HJR 35, HCR 48, HCR 70, HR 75** with Committee Amendment attached thereto, **SJR 17, SB 78, SB 178,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HR 43, A RESOLUTION opposing ratification of the Panama Canal Treaty.

WHEREAS, the President of the United States has negotiated with the Republic of Panama a treaty eventually surrendering U.S. control of the Panama Canal and the Canal Zone to the Republic of Panama; and

WHEREAS, much of the public discussion surrounding this proposal infers that the U.S. has no proprietary right to its presence in the Canal Zone, and merely "leases" the facility from the Panamanian government; and

WHEREAS, such allegations are totally false, while in fact the Republic of Panama ceded the Canal Zone to the United States in return for a cash payment of $10,000,000; and

WHEREAS, by previous treaty the Republic of Panama has excluded itself perpetually from exercising any sovereignty whatsoever in the Canal Zone; and

WHEREAS, the present proposal is endorsed and supported by those more concerned with "world opinion" and political relations with Latin America than with a sturdy U.S. defense posture; and

WHEREAS, the weakening of U.S. naval forces, authentically documented, makes more vital than ever before the two-ocean connection provided by the Panama Canal for vessels required to support a fleet now so small that it must be dispersed tactically in two oceans simultaneously; and

WHEREAS, ninety-three percent of the world's shipping still is able to transit the Panama Canal, yielding a handsome revenue for use of the facility, and which yield the Panamanian government no doubt is anxious to grasp, given its $2.77 billion in debt to U.S. banks; and

WHEREAS, the Senate of the United States soon will be called upon by the incumbent administration to ratify this proposal, thereby surrendering U.S. control of the canal after the year 2,000 with the U.S. retaining thereafter the "privilege" of spending lives and dollars toward its defense;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Senate of the United States be and it is hereby urged most respectfully and sincerely to reject ratification of the pending treaty with the Republic of Panama concerning governance of the Panama Canal and the Canal Zone.

Section 2. That the Clerk be directed to transmit copies of this resolution to President Jimmy Carter, the Secretary of the U.S. Senate, and individually to each Kentucky member of the U.S. Senate and House of Representatives.

HB 321, AN ACT relating to sick leave credit for retiring state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any member of the Kentucky employes retirement system or the state police retirement system who is employed by the commonwealth shall, on retirement, receive credit for unused sick leave accrued in the state service in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole

months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.505 to 16.645 or KRS 61.510 to 61.700. Such sick leave balance shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.505 to 16.645 or KRS 61.510 to 61.700.

(3) The board shall compute the cost to the retirement system of the sick leave credit of each retiring member and shall bill the last employer of the retiring employe for such cost. The employer shall pay the cost of such service credit by interaccount charge.

Section 2. KRS 61.545 is amended to read as follows:

The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months *except as provided in Section 1 of this Act.*

HB 449, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.120 is amended to read as follows:

(1) The legislative research commission shall formulate, supervise and execute plans and methods for the future revision, clarification, classification, codification, arrangement, annotating, indexing, printing, binding, publication, copyrighting, sale and distribution of the Kentucky Revised Statutes, including annotations and supplements, and all editions thereof.

(2) The commission shall prepare and submit to the general assembly such consolidation, revision and other matters relating to the statutes as can be completed from time to time.

(3) The commission shall keep in its office an accurate and complete record of all legislation enacted by the general assembly and shall study same for the purpose of determining the intention and the effect thereof. The commission shall prepare and keep accurate and complete annotations of court decisions construing the statutes. The commission shall advise and assist the members of the general assembly in the preparation and revision of legislation and matters connected therewith. *When preparing and revising legislation for members of the general assembly the commission shall maintain the confidentiality of each item of legislation which it is requested to prepare, and of the fact that such request has been made, until such time as the member or members of the general assembly having made the request shall introduce said legislation at a regular or extraordinary session of the general assembly or shall in writing authorize its publication by the commission.* The commission shall, when requested by the general assembly or either house thereof, report to the general assembly on bills introduced, calling attention to their effect on existing legislation and to any deficiencies in their form.

Section 2. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research, in conjunction with an application for a loan, the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person and which are generally recognized as confidential, or for the grant or review of a license to do business and if openly disclosed would permit an unfair advantage to competitors of the subject enterprise. This exemption shall not, however apply to records the disclosure or publication of which is directed by other statute.

(c) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. Provided, however, that this exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (b) above.

(d) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired; provided, however, the law of eminent domain shall not be affected by this provision.

(e) Test questions, scoring keys and other examination data used to administer a licensing examination, examination for employment or academic examination before the exam is given or if it is to be given again.

(f) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action. Provided, however that the exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884.

(g) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(h) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(i) All public records or information the disclosure of which is prohibited by federal law or regulation;

(j) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the general assembly;

(k) Drafts and requests for drafts of legislation to be prepared by the legislative research commission for members of the general assembly.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the non-excepted material available for examination.

(4) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

The Committee Substitute to **HB 449** is as follows:

HB 449, AN ACT relating to the Legislative Research Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.120 is amended to read as follows:

(1) The legislative research commission shall formulate, supervise and execute plans and methods for the future revision, clarification, classification, codification, arrangement, annotating, indexing, printing, binding, publication, copyrighting, sale and distribution of the Kentucky Revised Statutes, including annotations and supplements, and all editions thereof.

(2) The commission shall prepare and submit to the general assembly such consolidation, revision and other matters relating to the statutes as can be completed from time to time.

(3) The commission shall keep in its office an accurate and complete record of all legislation enacted by the general assembly and shall study same for the purpose of determining the intention and the effect thereof. The commission shall prepare and keep accurate and complete annotations of court decisions construing the statutes. The commission shall advise and assist the members of the general assembly in the preparation and revision of legislation and matters connected therewith. *When preparing and revising legislation for members of the general assembly the commission shall maintain the confidentiality of each item of legislation which it is requested to prepare, and of the fact that such request has been made, until such time as the member or members of the general assembly having made the request shall introduce said legislation at a regular or extraordinary session of the general assembly or shall in writing authorize its publication by the commission.* The commission shall, when requested by the general assembly or either house thereof, report to the general assembly on bills introduced, calling attention to their effect on existing legislation and to any deficiencies in their form.

HB 463, AN ACT relating to the office of state archaeologist and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.705 is amended to read as follows:

It is hereby declared to be the public policy of the commonwealth to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology, [and] anthropology *and paleontology.*

Section 2. KRS 164.710 is amended to read as follows:

As used in KRS 164.705 to 164.735, *and in this Act,* unless the context otherwise requires:

(1) "Archaeological site" means any place where articles of value in the scientific study of historic or prehistoric human life and activities may be found, such as *historic or prehistoric ruins, mounds, forts, earthworks, village locations, burial grounds, mines, caves, bone deposits, which are or may be the source of artifacts, or any place where individual artifacts, defined herein, may be found* [mounds, earthworks, forts, mines, burial grounds, graves and village or camp sites of Indians or any aboriginal race or pioneers].

(2) "Object of antiquity" means *all relics, specimens, or objects of an historical, prehistorical, archaeological, anthropological, or paleontological nature, which may be found above, on, or below the surface of the earth, and which have scientific or historic value as objects of antiquity, as aboriginal relics, or as archaeological specimens* [a ruin, monument, relic, bone deposit, artifact or any product of human workmanship of Indians or any aboriginal race or pioneers].

(3) *"Archaeological district" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of archaeological sites* ["Department" means the department of anthropology of the University of Kentucky].

(4) "State archaeologist" means the person appointed by the department of anthropology of the University of Kentucky with the advice and assistance of the state advisory council on archaeological resources to administer the provisions of this Act. The state archaeologist:

(a) Must qualify for and maintain nationally recognized professional credentials in archaeology.

(b) Shall not serve in the position of archaeologist on either the Kentucky heritage commission or the state historic preservation review board but shall make recommendations of qualified professional archaeologist for these appointments.

(c) Shall regularly report to the state advisory council on archaeological resources and the excutive director of the Kentucky heritage commission on the activities of his office.

(5) Office of state archaeologist means that office which is established at a suitable location in the Commonwealth and which:

(a) Administers the Commonwealth's program of archaeological research and development and ensures that the applicable provisions of the laws of the Commonwealth are complied with.

(b) Informs the citizens of the Commonwealth regarding their cultural heritage and develops favorable public attitudes toward conservation of archaeological sites, districts and objects of antiquity.

(c) Maintains direct liaison between professional and nonprofessional archaeologists regarding the archaeological programs of the Commonwealth and the needs of archaeological conservation.

d) Maintains a system of records and files on all archaeological sites and districts which are presently known and records all future discoveries in those files.

Section 3. KRS 164.720 is amended to read as follows:

(1) No person shall explore, excavate, appropriate or remove from land owned or leased by the commonwealth or any state agency or any political subdivision or municipal corporation of the commonwealth, any archaeological site or object of antiquity without first obtaining a permit from the *office of state archaeologist* [department of anthropology] upon the recommendation of the agency owning or having control of the land upon which the same is situated.

(2) If exploration or excavation of archaeological sites and the finding and gathering of objects of antiquity is undertaken for the benefit of reputable museums, universities, colleges or other recognized scientific or educational institutions with a view to promoting the knowledge of archaeology or anthropology, permits shall be regularly *and expeditiously* granted.

(3) Each permit issued by the *office of state archaeologist* [department] under this section shall accurately describe the location and sites of the ruins or deposits where the exploration or excavation is to be conducted and shall authorize such actions only at such location. The permit shall be upon such conditions as the *office of state archaeologist* [department] shall deem advisable for maximum effective exploration with a minimum of injury to the surrounding terrain. Each permit shall terminate upon the following thirty-first day of December, subject to an annual renewal on or before the following January 15. However, any permit may be revoked by the *office of state archaeologist* [department] at any time upon finding that explorations or excavations authorized by the permit are not being conducted lawfully or properly in accordance with *the specific* [its] terms *of the permit as issued.*

Section 4. KRS 164.725 is amended to read as follows:

The *state archaeologist* [department] may designate archaeological sites and objects of antiquity and cause to be posted at the locations thereof appropriate signs or markers.

Section 5. KRS 164.730 is amended to read as follows:

Any person who discovers an archaeological site or object of antiquity *on land owned or controlled by the state, any political subdivision thereof, or any municipal corporation* in the course of construction work *or permitted activity covered by ordinance or regulation,* or otherwise *and any person who has knowledge of such discovery to the office of state archaeologist,* shall report *the* [such] discovery to the *state archaeologist* [department].

Section 6. KRS 164.735 is amended to read as follows:

The *state archaeologist* [department] may enter into contracts or cooperative agreements with private landowners relating to the preservation and proper exploration of any archaeological site or object of antiquity situated on such private land. The *office of state archaeologist* [department] may acquire, with any funds available to it for such purpose, *easement or* title to any real estate upon which is located an archaeological site or object of antiquity which the *state archaeologist and the state advisory council on archaeological resources* [department] determine [s it] is important to be preserved.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The office of state archaeologist shall issue permits for archaeological exploration and field investigations to be undertaken on state lands to persons whom the state archaeologist and the state advisory council on archaeological resources may deem, by virtue of presentation of proof of professional competence, to be properly qualified to conduct such activity, subject to such rules and regulations as the state archaeologist may prescribe with the advice and consent of the state advisory council on archaeological resources; provided that such activity is undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions, qualified individuals, corporations, or societies approved by the state archaeologist and the state advisory council on archaeological resources, with a view toward disseminating the knowledge gained through their activities; and, provided that a complete report of such undertakings, containing relevant maps, documents, drawings, and photographs be submitted to the state archaeologist; and, provided further, that all specimens so collected under permit shall be the permanent property of the state, and that the state archaeologist shall make prior arrangements for the disposition of specimens derived from such activities in an appropriate institution of the state or for the loan of such specimens to qualified institutions in or out of the state.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The state archaeologist may publicly nominate to the Kentucky heritage commission, for designation as a "state archaeological landmark" or "state archaeological district," archaeological sites or districts of significance to the scientific study or representation to the public of the state's historical or prehistorical past. No site or district located on privately owned land shall be so nominated or designated without the express written consent of the owner or owners thereof. Final designation shall be made by the heritage commission. Between the time of the nomination and the Kentucky heritage commission's disposition of the nomination, all persons and organizations shall exercise caution to insure that their activities do not adversely affect the nominated site or district.

(2) Upon final designation of an archaeological site or district, the owners and occupants of each designated state archaeological landmark or district shall be given written notification of such designation by the Kentucky heritage commission.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

When transferring real property or easements under its jurisdiction that contain significant archaeological, anthropological or paleontological resources, the state, its agencies, departments and institutions, may, upon the recommendation of the state archaeologist, condition the transfer upon such covenants, easements, deed restrictions, or other contractual arrangements as will limit the future use of the property in such a way as will protect those resources.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Upon written notice to the executive department for finance and administration given by the state archaeologist, the commissioner of the executive department for finance and administration shall temporarily reserve from sale any state lands on which archaeological sites or objects of antiquity are located or may be found as designated by the state archaeologist; provided, however, that the reservation of such lands from sale may be confined to the actual location of the archaeological site or objects of antiquity. When such archaeological sites or objects of antiquity have been explored, excavated, or otherwise examined to the extent deemed necessary by the state archaeologist, said state archaeologist shall then file with the secretary a statement releasing such lands.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

All state agencies, departments, institutions, and commissions, as well as all counties and municipalities, shall cooperate fully with the state archaeologist in the conservation, protection, excavation, and evaluation of objects of antiquity and archaeological sites; and to that end:

(a) When any state, county, or municipal agency finds or is made aware by an appropriate historical or archaeological authority that its operation in connection with any state, state-assisted, state-licensed, state permitted, or contracted project, activity, or program adversely affects or may adversely affect archaeological data, such agency shall notify the office of state archaeologist as appropriate and shall provide the agency with appropriate information concerning the project, program, or activity. The provisions of this Act shall be made known to contractors by the state agencies doing the contracting.

(b) The office of the state archaeologist, upon notification or determination that archaeological data is or may be adversely affected, shall, after reasonable notice to the responsible agency, cause to be conducted a survey and other investigations to recover and preserve or otherwise protect such data, including analysis and publication, which in his opinion should be recovered in the public interest.

(c) The office of the state archaeologist shall initiate actions within sixty (60) days of notification under subsection (a) or within such time as agreed upon in other cases. The responsible agency is authorized to expend agency funds for the purpose of recovering said data, including analysis and publications, and such costs shall be included as part of the contractor's costs if the adverse effect is caused by work being done under contract to a state agency.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established an advisory council on archaeological resources. The council shall consist of not more than thirteen (13) members appointed by the state historic preservation officer. The council shall consist of one professional archaeologist from each of the four-year, state-supported public institutions of higher education if appointed therein; two (2) professional archaeologists from each of the private colleges and universities of the Commonwealth; one (1) member from a professionally recognized, statewide amateur archaeological association; and two (2) public members. The state archaeologist and any other archaeologist representing any branch of state government, excluding archaeologists employed by colleges and universities, shall not serve as members of the council. All terms of the members shall be for a period of four (4) years. Vacancies shall be filled in the same manner as initial appointments. The council shall choose from among its members one (1) member who shall serve as chairman. All members of the advisory council shall serve without compensation, but each member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the council. For administrative and budgetary purposes the council is attached to the office of the state archaeologist, which shall furnish necessary staff services to the council.

(2) Meetings, powers, and duties of council:

(a) The council shall meet semiannually and whenever called into session by the chairman or state archaeologist.

(b) The council shall serve as an advisory body to the state archaeologist and Kentucky heritage commission on matters relating to the conservation, protection, or acquisition of any of the Commonwealth's archaeological resources.

(c) The council may assist the state archaeologist in the designation and evaluation of state archaeological landmarks or state archaeological districts as set forth in Section 8.

(d) The council may, at its discretion, solicit or receive the views of other public or private agencies and individuals, in considering any matter to come before it.

(e) Exclusive of terminations, the council shall review contested denials or revocations of permits and comment on such to the state archaeologist.

(f) The council shall advise and assist the department of anthropology of the University of Kentucky in the appointment of the state archaeologist.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any person who violates the provisions of KRS 164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned.

Section 15. To carry out the purposes of this Act, there is appropriated to the office of the state archaeologist out of the general fund the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1978-

79 and the sum of thirty-five thousand dollars ($35,000) for the fiscal year 1979-80.

The Committee Amendment to **HB 463** is as follows:

Amend printed copy of **HB 463,** page 11, line 8, beginning after the word "therein;" delete the word "two" and numeral "(2)" and substitute the word "one" and numeral "(1)" in lieu thereof;

and on page 11, line 9, change the word "archaeologists" from the plural to the singular, "archaeologist;"

and on page 11, line 10, following the word "Commonwealth," add the words, "if appointed therein,".

HB 465, AN ACT relating to conflicts of interest of public officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.096 is amended to read as follows:

(1) No officer or employe of the general assembly, or officer or employe of an agency as defined in KRS 61.094, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services to be rendered, either by himself or another, in negotiations with the state or an agency for the purchase by the state or an agency of an interest in real property. This section shall not apply to appearances before any court, except that negotiations shall be prohibited as aforesaid at any time.

(2) No officer or employe of an agency or member of a state board or commission, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which such officer or employe may be called upon to act or vote. No such officer or employe may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which such officer or employe may be called upon to act or vote. Nor may any such officer or employe take, solicit or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. For the purposes of this section the holding of less than five per cent (5%) of the stock of a corporation is not considered an interest.

(3) No officer or employe of the general assembly or officer or employe of any agency shall, for compensation, appear before an agency as an expert witness.

(4) No officer or employe of the general assembly, or officer or employe of any agency, shall act as officer or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association or firm in which he or his spouse has any interest greater than five per cent (5%) of the total value thereof.

(5) No officer or employe of an agency or appointee shall knowingly himself or by his partners or through any corporation which he controls or in which he owns or controls more than ten per cent (10%) of the stock, or by any other person for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract, [or] agreement, [for] sale or purchase *of the value of twenty-five dollars ($25.00) or more,* [as provided by KRS Chapter 45,] made, entered into, awarded or granted by any agency, unless *said contract, agreement, sale or purchase was made or let after public notice and competitive bidding* [the provisions of KRS Chapter 45 are complied with].

(6) No officer, employe or appointee of an agency, including persons who serve without salary or other payment for their services, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services rendered or to be rendered, either by himself or another, in any cause, proceeding, application or other matter which is before said agency or before the department of state government in which said agency functions.

HB 468, AN ACT relating to the custodial authority of the Kentucky Historical Society for the Old State Capitol Building.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.315 is amended to read as follows:

(1) The headquarters of the Kentucky Historical Society shall be located in the Old State Capitol Building, and the said society shall control in all respects the manner in which the said capitol building and the space therein, shall be used. The said society shall exercise the same control over the Old State Capitol

Building Annex, and the society shall use the said annex for such purposes of the society as it shall deem necessary and proper. The grounds around the Old State Capitol Building and its annex, such grounds being now bounded by Broadway, [Madison,] Clinton, and Lewis Streets, *and adjoining the federal property occupied by the John C. Watts building,* shall be subject to the control of the said society and be used by the society, for such purposes of the society as it shall deem necessary and proper. [No] Major alterations or other changes concerning the said building, annex, or grounds shall be made *under the authority of the Executive Committee of the Kentucky Historical Society and under the general supervision of the director who shall determine the nature and extent of any work to be done so as to protect the architectural integrity of the original structures* [without the approval of the commissioner of the executive department for finance and administration and the governor]. The maintenance and security of the said building, annex, and grounds shall be the responsibility of the executive department for finance and administration *and shall be of highest priority among the other responsibilities of the state for capital construction, maintenance or security. At the direction of the Executive Committee, the director of the society may request the executive department for finance and administration to perform, or cause to be performed, any work he deems necessary for the proper preservation and protection of the properties. Such work will be undertaken within no less than sixty (60) days from the date of notification to the executive department for finance and administration; otherwise the secretary of said department is required to show cause, in writing, to the Executive Committee and the director, for the delay.*

(2) No part of, or interest in, the real property hereinabove specified shall be leased, sold, or otherwise disposed of under any circumstances. Said real property, including the building interiors, shall be maintained and preserved in a manner consistent with the best interests of the Commonwealth.

The Committee Amendment to **HB 468** is as follows:

Amend rpinted copy of **HB 468,** page 2, line 18, by inserting after the word "*will*" and before the word "*be*" the word "*either*";

and on page 2, line 20, by inserting after the word "*administration*" the word "or" and bracket the word "[*otherwise*]";

and on page 2, line 21, by inserting after the word "*department*" the word "*shall*" and bracket the words "[*is required to*]";

and on page 2, line 22, by inserting after the word "*director*" the words "*why such work was not undertaken.*" and bracket the words "[*for the delay*]".

HB 640, AN ACT relating to the Capital Plaza Authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 58.215 is amended to read as follows:

(1) The capital plaza authority shall be composed of five (5) members. The governor [, commissioner of finance, and attorney general] shall *appoint* [be] the three (3) state members, *one (1) of whom shall be a person nominated by the secretary of the executive department for finance and administration and one (1) of whom shall be a person nominated by the attorney general.* The mayor shall appoint the city member. The county judge/executive shall appoint the county member. Both the city member and the county member shall serve for a four (4) year term. These five (5) persons are a body corporate constituting a public corporation and governmental agency and instrumentality of the commonwealth by the name of the "Capital Plaza Authority," with perpetual succession and with power in that name to contract and be contracted with, to convey property, to sue and be sued, to have and use a corporate seal, and to exercise, in addition to the powers and functions specifically stated in KRS 58.210 to 58.315, all of the usual powers of private corporations not inconsistent with specifically enumerated powers.

(2) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as members.

(3) Three (3) members of the authority shall constitute a quorum for the transaction of business. The governor shall *designate* [be] the chairman of the authority and [the commissioner of finance shall be] the vice-chairman. The authority shall elect a secretary and a treasurer who shall serve at the pleasure of the authority and receive such compensation as may be determined by the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the commonwealth, premium therefor

to be paid by the authority. The authority shall establish and maintain an office and the secretary of the authority shall maintain therein complete records of the authority's actions and proceedings, as public records open to inspection.

HB 647, AN ACT relating to Nuclear Waste Disposal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The location of a nuclear waste disposal facility in the Commonwealth of Kentucky shall require prior approval by a majority of the members of the Kentucky house of representatives, a majority of the members of the Kentucky senate and the approval of the governor of Kentucky.

(2) Before an application to locate a nuclear waste disposal facility in Kentucky can be submitted for approval by the Kentucky general assembly, it must first receive the approval of the secretaries of the departments for human resources and natural resources and environmental protection. It shall be the responsibility of the department for human resources and the department for natural resources and environmental protection to ensure that a comprehensive environmental impact statement is submitted and that public hearings are held in the county in which it is proposed to locate a nuclear waste disposal facility.

(3) This Act shall not apply to nuclear waste disposal facilities in existence prior to the effective date of this Act.

HB 648, AN ACT relating to nuclear waste.

WHEREAS, a nuclear waste disposal facility in Kentucky has developed problems which have created doubt as to its public safety; and

WHEREAS, the Kentucky department for human resources has taken strong positive action to protect the health and safety of the citizens of the Commonwealth with regard to the potential dangers of nuclear waste; and

WHEREAS, the Kentucky General Assembly commends the actions of the department for human resources and is desirous of joining forces with the department to greater involve the people of Kentucky in decisions concerning nuclear waste; and

WHEREAS, it is the belief of the General Assembly that the subject of nuclear waste is of such a serious and long-term nature that the executive and legislative branches of government should combine their respective efforts;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) In the event that a nuclear waste disposal facility, licensed and regulated by the Kentucky department for human resources is closed, either because there is doubt as to the public safety of the site or because the operation of the site is not in compliance with department regulations, such site may not re-open without public hearings being held and the approval of the legislative research commission. Closure of the site shall include both temporary closure and closure for an indefinite period of time.

(2) The department for human resources shall be responsible for organizing the public hearings, which shall be held in the county in which the nuclear waste disposal facility is located and shall be at a time and place convenient for public participation. Adequate notification shall be given to the public of the intention to re-open a nuclear waste disposal site and the department shall make available to the public the data and information upon which its decision to recommend approval of re-opening of the site is based.

(3) The legislative research commission shall have final responsibility for approving the re-opening of a nuclear waste disposal facility and in making its decision shall take into account the findings of the public hearings provided for in subsection (2) of this section. The commission may at its discretion appoint a special advisory committee to make recommendations regarding the re-opening of a nuclear waste disposal facility and in any event shall select five (5) persons to represent the commission at the public hearings.

Section 2. Whereas, a nuclear waste disposal site in Kentucky has recently been closed temporarily due to doubt as to its long-term safety, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HB 660, AN ACT relating to state government professional employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of state planning, and the office of the secretary of the governor's cabinet;

(e) Heads of departments, including those appointed by boards and commissions;

(f) One (1) principal assistant or deputy for each head of a department;

(g) One (1) additional principal assistant or deputy, or other major assistants as may be necessary for making and carrying out policy, for each head of a department in those instances in which the nature of the functions, size or complexity of the agency involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such in institutions for treatment of patients with mental illness or tuberculosis;

(j) One (1) private secretary for each head of a department and for each principal assistant or deputy not included in the classified service;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.360 applicable to faculty members and staff; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, *and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services who are retained pursuant to application procedures, lists of eligibles, and classification and compensation systems developed by the commissioner of personnel and approved by the professional employment commission under the provisions of Section 4 of this Act*;

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) Peace officers in the department of justice, Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner;

(t) Superintendents of state penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 2. KRS 45.360 is amended to read as follows:

(1) The executive department for finance and administration shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the executive department for finance and administration food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, *scientific,* or artistic services (Contracts exempted by this provision shall be *reviewed and approved in accordance with Section 4 of this Act* [referred to the department of personnel for review and approval]);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the executive department for finance and administration, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the executive department for finance and administration from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The executive department for finance and administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the commissioner of the executive department for finance and administration, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the executive department for finance and administration may prescribe.

(4) The executive department for finance and administration shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The executive department for finance and administration shall conduct periodic physical audits of inventories.

(5) The executive department for finance and administration shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the executive department for finance and administration prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The executive department for finance and administration shall have power, with the approval of the commissioner of the executive department for finance and administration, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the commissioner of the executive department for finance and administration. The determination of the commissioner of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the commissioner of the executive department for finance and administration and approved by the governor. Unless the commissioner of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department of revenue, or department of transportation for such requirements of that department.

(8) Except as provided in KRS chapters 175, 176, 177 and 180, the executive department for finance and administration shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department of revenue, department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the executive department for finance and administration, based upon a written application by the head of the agency requesting the purchase, and approved by the commissioner of the executive department for finance and administration and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property of the executive department for finance and administration in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS chapter 56.

(10) The executive department for finance and administration shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the commissioner of the executive department for finance and administration, the governor, and the general assembly. The executive department for finance and administration shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the commissioner of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids when delegated to and are received by construction managers shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The executive department for finance and administration shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "professional employment contract" shall mean a contract for professional, technical, scientific, or artistic services, as exempted from competitive bidding under KRS 45.360(1)(f).

(2) There is hereby created a professional employment commission. The commission shall be composed of five (5) members, three (3) of whom shall not be officers or employes of the Commonwealth. Members shall be appointed by the governor for four (4) year terms. In the event of a vacancy, the governor shall proceed forthwith to appoint a successor to his unexpired term. Of the members first appointed, one (1) shall serve until January 1, 1979, one (1) until Janaury 1, 1980, one (1) until January 1, 1981, and two (2) until January 1, 1982. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which his predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed for the remainder of the term.

(3) Members of the commission shall annually elect one (1) of their number to serve as chairman. The comission shall meet at such time and place as the chairman may specify. All meetings shall be open to the public. Three (3) members shall constitute a quorum for the transaction of business. Members of the commission who are not officers or employes of the Commonwealth shall receive compensation of fifty dollars ($50) per diem for attending called meetings. Each member shall receive reimbursement of traveling expenses for each meeting of the commission which he attends.

(4) The commission shall be attached to the executive department for finance and administration for administrative purposes. Any professional or clerical services required by the commission shall be provided by the executive department for finance and administration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of the commission to review all professional employment contracts before such contracts shall be effective, except those contracts to which Sections 5 and 6(3) of this Act apply.

(2) The commission shall adopt procedures for the submission, review and approval of proposed contracts for professional employment. Such procedures shall be developed by the executive department for finance and administration and the department of personnel, and shall include provisions:

(a) For the review of proposed professional employment contracts by the executive department for finance and administration and the department of personnel;

(b) For documentation of the necessity for the service;

(c) For documentation of the unavailability of state personnel to perform the service or the non-feasibility of utilizing state personnel to perform the service; and

(d) For documentation of the reasonableness of the cost of the service and of the duration of the contract, except for those contracts subject to Sections 5 and 6(3) of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The department of personnel shall develop procedures for the awarding of professional employment contracts for those categories of service which may be provided by individuals. Such procedures shall include provisions for:

(1) Furnishing proof of necessity for the service;
(2) Documentation that state employes could not or should not provide the service;
(3) Application procedures;
(4) A classification system including minimum qualifications;
(5) Equitable compensation schedules for the various classifications;
(6) Lists of qualified applicants; and,
(7) Certification of qualified applicants to contracting agencies.

If such procedures are approved and adopted by the commission, and if the contracts are awarded in accordance with these approved procedures, individual review and approval of these contracts by the commission shall not be required.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) If the evaluation of the qualifications of a professional employment applicant made by the department of personnel or another state agency results in a finding that the individual is not qualified according to department standards, the applicant shall be so notified. Any such applicant who has been so disqualified may appeal to the professional employment commission for reevaluation, and the decision of the commission as to the applicant's qualifications shall be final.

(2) Any contract which has been reviewed by the personal service contract review subcommittee of the legislative research commission, and determined by that subcommittee to fail to meet the subcommittee's standards, shall be reported to the professional employment commission as well as the contracting body, and such contract shall immediately be reviewed by the professional employment commission. If the commission agrees with the subcommittee's findings, it shall require cancellation or modification of the contract by the contracting agency with thirty (30) days' notice to the contractee. The commission shall report to the personal service contract review subcommittee of the legislative research commission its findings within sixty (60) days of receipt of the subcommittee's objections, and shall report to the subcommittee whether a cancellation or modification is proposed. The decision of the commission on such modification or cancellation shall take precedence over any determination by the contracting agency to the contrary.

(3) Prior approval of the commission shall not be required when an emergency exists and the governor issues an executive order that the contract become effective immediately. Such a contract shall expire at the end of one hundred twenty (120) days, unless during such period the contract is approved according to the commission's regular procedures.

HB 661, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The president of the student body of any state university may receive an honorarium for his service. The receipt of such honoraria or other compensation from the university shall not constitute a conflict of interest in the event he serves on the governing board of the university.

HB 675, AN ACT relating to public procurement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 45A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the "Kentucky Model Procurement Code."

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) This code shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this code shall be:

(a) To simplify, clarify, and modernize the law governing purchasing by the Commonwealth and its local public agencies;

(b) To permit the continued development of purchasing policies and practices;

(c) To make as consistent as possible the purchasing laws among the various states;

(d) To provide for increased public confidence in the procedures followed in public procurement;

(e) To insure the fair and equitable treatment of all persons who deal with the procurement system of the Commonwealth;

(f) To provide increased economy in state and local procurement activities by fostering effective competition; and

(g) To provide safeguards for the maintenance of a procurement system of quality and integrity.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Unless displaced by the particular provisions of this code, the principles of law and equity, including the uniform commercial code, the law merchant, and law relative to capacity to contract, agency, fraud, misrepresentation, duress, coercion, mistake, and bankruptcy, shall supplement its provisions.

(2) Every contract or duty under this code shall impose obligation of good faith in its performance or enforcement. "Good faith" shall mean honesty in fact in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

This code shall apply to every expenditure of public funds by this Commonwealth under any contract or like business agreement, excepting only that this code shall not apply to contracts or like business agreements between the Commonwealth and its political subdivisions or other governments, except as provided in Sections 59 through 64 and Sections 70 through 94 of this code. It shall also apply to the disposal of state property.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) If any provision of this code or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this code which can be given effect without the invalid provision or application, and to that end the provisions of this code are declared to be severable.

(2) Since this code is a general act intended to provide model coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction of the subsequent legislation can be reasonably avoided.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Every determination required by this code shall be in writing and based upon written findings of the public official making the determination. These determinations and written findings shall be retained in an official contract file in the office of the chief purchasing officer or in the office of the using agency or local public agency administering the contract.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The words defined in this section shall have the meanings set forth below whenever they appear in this code, unless the context in which they are used clearly requires a different meaning; or a different definition is prescribed for a particular section, group of sections or provision.

(1) "Business" shall mean any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity through which business is conducted.

(2) "Change order" shall mean a written order signed by the purchasing officer, directing the contractor to make changes which the changes clause of the contract authorizes the purchasing officer to order without the consent of the contractor.

(3) "Chief purchasing officer" shall mean the person holding the position created in Section 9 of this code, as the head of the division of state purchasing.

(4) "Construction" shall mean the process of building, altering, repairing, improving or demolishing any public structures or building, or other public improvements of any kind to any public real property. It does not include the routine maintenance of existing structures, buildings, or real property.

(5) "Contract" shall mean all types of state agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It shall include awards; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

(6) "Contract modification" shall mean any written alteration in the specifications, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract, whether

accomplished by unilateral action in accordance with a contract provision, or by mutual action of the parties to the contract. It shall include bilateral actions, such as supplemental agreements, and unilateral actions, such as change orders, administrative changes, notices of termination, and notices of the exercise of a contract option.

(7) "Contractor" shall mean any person having a contract with a governmental body.

(8) "Data" shall mean recorded information, regardless of form or characteristic.

(9) "Designee" shall mean a duly authorized representative of a person holding a superior position.

(10) "Employe" shall mean an individual drawing a salary from a governmental body or local public agency, whether elected or not, and any non-salaried individual performing personal services for any governmental body or local public agency.

(11) "Governmental body" shall mean any department, commission, council, board, bureau, committee, institution, legislative body, agency, government corporation, or other establishment of the executive or legislative branch of the state.

(12) "May" shall mean permissive.

(13) "Negotiation" shall mean contracting by either the method set forth in Sections 18, 19, or 20 of this code,

(14) "Person" shall mean any business, individual, organization or group of individuals.

(15) "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining of any supplies, services, or construction. It shall also include all functions that pertain to the obtaining of any supply, service, or construction item, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(16) "Purchase request" or "purchase requisition" shall mean that document whereby a using agency requests that a contract be obtained for a specified need, and may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written determination and finding required by Section 6 of this code.

(17) "Purchasing agency" shall mean any governmental body which is authorized by this code or its implementing regulations or by way of delegation from the chief purchasing officer to contract on its own behalf rather than through the central contracting authority of the chief purchasing officer.

(18) "Purchasing officer" shall mean any person authorized by a governmental body in accordance with procedures prescribed by regulations, to enter into and administer contracts and make written determinations and findings with respect thereto. The term shall also include an authorized representative acting within the limits of authority.

(19) "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product, other than reports which are merely incidental to the required performance of services.

(20) "Shall" shall mean imperative.

(21) "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

(22) "Supplies" shall mean all property, including but not limited to leases of real property, printing and insurance, except land or a permanent interest in land.

(23) "Using agency" shall mean any governmental body of the state which utilizes any supplies, services, or construction purchased under this code.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the executive department for finance and administration shall have power and authority over, and may, except as otherwise expressly provided in this code, adopt regulations pursuant to KRS Chapter 13 and consistent with this code governing the purchasing management and control of any and all supplies, services, and construction, and other items required to be purchased by the Commonwealth. The secretary shall consider and decide matters of policy with regard to state procurement. The secretary shall have the power of review with respect to the implementation of regulations and policy determinations.

(2) Regulations shall be adopted governing the following:

(a) Conditions and procedures for delegations of purchasing authority;

(b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

(c) Small purchase procedures;

(d) Conditions and procedures for the purchase of perishables and items for resale;

(e) Conditions and procedures for the use of source selection methods authorized by this code, including emergency purchases;

(f) Opening and rejection of bids or offers, consideration of alternate bids, and waiver of informalities in offers;

(g) Confidentiality of technical data and trade secrets information submitted by actual or prospective bidders or offerors;

(h) Partial, progressive, and multiple awards;

(i) Supervision of storerooms and inventories, including determination of appropriate stock levels and the management, transfer, sale, or other disposal of state-owned property;

(j) Definitions and classes of contractual services and procedures for acquiring them.

The secretary may adopt such other regulations as deemed advisable to carry out the purposes of this code.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created, within the executive department for finance and administration, the division of state purchasing, headed by a director who shall be styled the chief purchasing officer.

(2) The secretary of the executive department for finance and administration, with the approval of the governor, shall appoint the chief purchasing officer. The chief purchasing officer shall have had a minimum of five (5) years' experience, within ten (10) years preceding the date of his appointment, in the large-scale purchasing of supplies, services, or construction items, and such experience shall have demonstrated executive and organizational ability, and a thorough knowledge of procurement.

(3) The chief purchasing officer shall be a full-time employe of the Commonwealth. He shall be removed from office by the governor upon a showing of just cause.

SECTION 10. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The chief purchasing officer shall have the following authorities and responsibilities:

(1) To serve as the central procurement and contracting officer of the Commonwealth;

(2) To recommend regulations, rules, and procedures for adoption by the secretary of the executive department for finance and administration;

(3) To purchase or otherwise acquire, or, with the approval of the secretary, to delegate the purchase and acquisition of, all supplies, services and construction for the Commonwealth;

(4) To sell, trade, or otherwise dispose of surplus supplies, services, and construction for the Commonwealth;

(5) To exercise general supervision and control over all warehouses, storerooms, and stores and of all inventories of supplies, services, and construction belonging to the Commonwealth;

(6) To establish and maintain programs for the development and use of purchasing specifications and for the inspection, testing, and acceptance of supplies, services, and construction; and

(7) To prepare and deliver such reports as the secretary may require for the proper conduct of all official duties.

SECTION 11. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS Chapters 175, 176, 177 and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the executive department for finance and administration and the chief purchasing officer as provided in this code, subject to the provisions of subsection (2) of this section.

(2) Unless otherwise ordered by the chief purchasing officer and approved by the secretary, the acquisition of the following shall not be required through the division of state purchasing:

(a) Works of art for museum and public display;

(b) Published books, maps, periodicals, and technical pamphlets; and

(c) Services of visiting speakers, professors, and performing artists.

SECTION 12. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Prior to January 1, 1979, the secretary of the executive department for finance and administration shall publish the initial state purchasing regulations in accordance with current executive department for finance and administration policies and procedures. The initial regulations may be promulgated on an interim basis, without regard to the provisions of KRS Chapter 13, provided, however, that final regulations shall be promulgated pursuant to the provisions of KRS Chapter 13 within two hundred forty (240) days following the promulgation of the initial regulations.

(2) All additions, deletions, or other modifications of the final purchasing regulations issued pursuant to subsection (1) of this section shall be promulgated by the secretary in accordance with any applicable provisions of KRS Chapter 13.

(3) The secretary shall not delegate his power to issue the state purchasing regulations under subsections (1) and (2) of this section to the chief purchasing officer or any other person or agency, and no state purchasing regulations shall be issued except as approved by the secretary.

(4) No state purchasing regulation shall change in any way a contract commitment by the Commonwealth nor of a contractor to the Commonwealth, which was in existence on the effective date of the regulation.

(5) The provisions of state purchasing regulations promulgated as authorized herein shall be considered to be incorporated by operation of law in all state contracts.

SECTION 13. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the executive department for finance and administration and the chief purchasing officer shall maintain a close and cooperative relationship with the using agencies of the Commonwealth. Any using agency may at any time make recommendations concerning procurement to the secretary or the chief purchasing officer.

(2) The chief purchasing officer shall annually prepare statistical data concerning the acquisition, usage and disposition of all supplies, services, and construction. All using agencies shall furnish such reports as the chief purchasing officer may require concerning usage, needs, and stocks on hand, and the chief purchasing officer shall have authority to prescribe forms to be used by the using agencies in requisitioning, ordering, and reporting of supplies, services, and construction.

SECTION 14. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the executive department for finance and administration may establish a procurement advisory council which shall meet at least once a year for the discussion of problems and recommendations for improvement of the procurement process. When requested by the secretary, the procurement advisory council shall conduct studies, research, analyses, and make reports and recommendations with respect to such subjects or matters within the jurisdiction of the secretary as may be prescribed. The procurement advisory council may consist of such qualified representatives of government, industry, educational institutions, and the general public as the secretary may deem desirable. Members shall be reimbursed for expenses incurred in the performance of council duties subject to the provisions of KRS 45.180.

(2) The chief purchasing officer, with the approval of the secretary, may appoint advisory councils to assist him with respect to specifications and procurement in specific commodity areas as well as other matters within his delegated authority. Advisory council members may consist of various qualified representatives as described in subsection (1) of this section, as may be appropriate for the designated task or project. Compensation shall be provided as in subsection (1) of this section.

(3) The secretary may also establish and maintain, either alone or in cooperation with other states, the federal government, municipalities, or other units of local government, a procurement institute for the purpose of disseminating information concerning state procurement and for training and educating officials and other persons in procurement, including persons not employed by the Commonwealth.

SECTION 15. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in sections 15 through 34 of this code, unless the context in which they are used clearly requires a different meaning:

(1) "Cost-reimbursement contract" shall mean a contract under which the Commonwealth reimburses the contractor for those contract costs, within a stated ceiling, which are allowable and allocable in accordance with cost principles (as provided in section 43 of this code), and a fee, if any.

(2) "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(3) "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value.

(4) "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in section 17 of this code.

(5) "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in sections 18, 19, 20, or 21 of this code.

(6) "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(7) "Responsive bidder" shall mean a person who has submitted a bid under section 17 of this code which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal

footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

SECTION 16. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:
Except as otherwise authorized by law, all state contracts shall be awarded by:
(1) Competitive sealed bidding, pursuant to section 17 of this code; or
(2) Competitive negotiation, pursuant to sections 18 and 19 of this code; or
(3) Noncompetitive negotiation, pursuant to section 20 of this code; or
(4) Small purchase procedures, pursuant to section 21 of this code.

SECTION 17. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Contracts exceeding the amount provided by section 21 of this code shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(a) Specifications can be prepared that permit award on the basis of either the lowest bid price or the lowest evaluated bid price; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state whether award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids.

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth therein for the opening of bids. Such notice shall include publication in a newspaper of general circulation in the state as determined by the secretary of the executive department for finance and administration not less than seven (7) days nor more than twenty-one (21) days before the date set for the opening of the bids.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection.

(5) The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or lowest evaluated bid price.

(6) Correction or withdrawal of bids may be allowed only to the extent permitted by regulations issued by the secretary.

SECTION 18. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When, under regulations issued by the secretary, the chief purchasing officer determines in writing that the use of competitive sealed bidding is not practicable, and except as provided in sections 20 and 21 of this code, a contract may be awarded by competitive negotiation.

(2) Contracts may be competitively negotiated when it is determined in writing by the chief purchasing officer that the bid prices received by competitive sealed bidding either are unreasonable as to all or part of the requirements, or were not independently reached in open competition, and for which:

(a) Each responsible bidder has been notified of the intention to negotiate and is given reasonable opportunity to negotiate; and

(b) The negotiated price is lower than the lowest rejected bid by any responsible bidder; and

(c) The negotiated price is the lowest negotiated price offered by any responsible offeror.

(3) Adequate public notice of the request for proposals shall be given in the same manner as provided in section 17(3) of this code.

(4) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the Commonwealth, taking into consideration price and the evaluation factors set forth in the request for proposals.

(6) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service, or construction item, that acceptance of an initial offer without discussion would result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that award may be made on the basis of the initial offers.

SECTION 19. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under section 17 of this code result in bid prices in excess of the funds available for the purchase, and the chief purchasing officer determines in writing:

(a) That there are no additional funds available from any source so as to permit an award to the lowest responsive and responsible bidder; and

(b) The best interest of the state will not permit the delay attendant to a resolicitation under revised specifications, or for revised quantities, under competitive sealed bidding as provided in section 17 of this code, then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one bidder, competitive negotiations pursuant to section 18 of this code, shall be conducted with the three (two if there are only two) bidders determined in writing to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with section 20 of this code.

SECTION 20. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

A contract may be made by noncompetitive negotiation only when competition is not feasible, as determined by the chief purchasing officer in writing prior to award, under regulations issued by the secretary of the executive department for finance and administration, and emergency purchases may be made pursuant to KRS 45.400.

SECTION 21. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Procurements, not to exceed an aggregate amount of five thousand dollars ($5,000) for construction and twenty-five hundred dollars ($2,500) for all other purchases may be made in accordance with small purchase regulations promulgated by the secretary of the executive department for finance and administration. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section. At least every three (3) years, the secretary shall review the prevailing costs of labor and materials and may make recommendations to the next regular session of the General Assembly for the revision of the then current maximum small purchase amount as justified by intervening changes in the cost of labor and materials.

SECTION 22. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

An invitation for bids, a request for proposals, or other solicitation may be cancelled, or all bids or proposals may be rejected, if it is determined in writing that such action is taken in the best interest of the Commonwealth and approved by the chief purchasing officer.

SECTION 23. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A written determination of responsibility of a bidder or offeror shall be made and it shall be made in accordance with regulations issued by the secretary of the executive department for finance and administration. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such a bidder or offeror.

(2) Except as otherwise provided, by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the division of state purchasing or the purchasing agency administering the contract without prior written consent of the bidder or offeror.

SECTION 24. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The secretary of the executive department for finance and administration may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

SECTION 25. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A contractor shall submit cost or pricing data and shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date prior to the date of:

(a) The pricing of any negotiated contract where the total contract price is expected to exceed fifty thousand dollars ($50,000); or

(b) The pricing of any change order or contract modification which is expected to exceed twenty-five thousand dollars ($25,000), or such lesser amount in either instance as may be prescribed by the purchasing officer.

(2) Any contract, change, or modification thereto under which a certificate is required shall contain a provision that the price to the Commonwealth, including profit or fee, shall be adjusted to exclude any significant sums by which the purchasing officer finds that such price was increased because the contractor furnished cost or pricing data, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

(3) The requirements of this section need not be applied to contracts where the price negotiated is based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation, or in exceptional cases where it is determined in writing by the chief purchasing officer that the requirements of this section may be waived, and the reasons for such waiver are stated in writing.

SECTION 26. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The cost plus a percentage of cost system of contracting shall not be used.

SECTION 27. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) No contract providing for the reimbursment of the contractor's cost plus a fixed fee, hereinafter referred to as a cost reimbursement contract, may be made under Sections 18, 19, or 20 of this code, unless it is determined in writing by the chief purchasing officer that such contract is likely to be less costly to the Commonwealth than any other type of contract, or that it is impracticable to obtain supplies or services of the kind or quality required except under such a contract.

(2) Each contractor under a cost reimbursement type contract shall give notice, as provided for in the contract, before entering into:

(a) A cost reimbursement type subcontract; or

(b) Any other type of subcontract involving more than ten thousand dollars ($10,000), or ten percent (10%) of the estimated cost of the prime contract.

(3) All cost reimbursement type contracts shall contain a provision that only costs recognized as allowable, in accordance with cost principles set forth in regulations issued pursuant to Section 43 of this code, will be reimbursable.

SECTION 28. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Subject to the limitations of Sections 26 and 27 of this Code, any type of contract which will promote the best interests of the Commonwealth may be used.

SECTION 29. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Except with respect to firm fixed price type contracts, no contract type shall be used unless it has been determined in writing that the proposed contractor's accounting system will permit timely development of all necessary cost data in the form required by the specific contract type contemplated and that the contractor's accounting system is adequate to allocate costs in accordance with generally accepted accounting principles.

SECTION 30. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in the statute making appropriations therefor, multi-year contracts for supplies and services may be entered into for periods not extending beyond the end of the biennium in which the contract was made, if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability of funds therefor.

(2) Prior to the utilization of a contract as described in subsection (1) of this section, it shall be determined in writing by the chief purchasing officer:

(a) That estimated requirements cover the period of the contract and are reasonably firm and continuing; and

(b) That such contract will serve the best interests of the Commonwealth by encouraging effective competition or otherwise promoting economies in state procurement.

(3) When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent year of a contract as described in subsection (1) of this section, the contract for such subsequent year may be cancelled and the contractor shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services delivered under the contract. The cost of cancellation may be paid from:

(a) Appropriations currently available for performance of the contract; or

(b) Appropriations currently available for procurement of similar supplies or services and not otherwise obligated; or

(c) Appropriations made specifically for the payment of such cancellation costs.

SECTION 31. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The executive department for finance and administration may inspect the plant or place of business of a contractor or any subcontractor under any contract awarded or to be awarded by the Commonwealth.

(2) The executive department for finance and administration may audit the books and records of any person who has submitted cost or pricing data under Section 25 of this code at any time until the period of record retention as set forth in subsection (3) of this section shall have expired. The right to audit hereunder shall only extend to those books and records reasonably connected with cost or pricing data submitted under Section 25 of this code, and such books and records shall be maintained by the contractor or subcontractor for the period specified in subsection (3) of this section.

(3) The executive department for finance and administration shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price type contract, provided, however, that this subsection shall not limit the right to audit as set forth in subsection (2) of this section. Such books and records shall be maintained by the contractor for a period of three (3) years from the date of final payment under the prime contract and by the subcontractor for a period of three (3) years from the date of final payment under the subcontract.

SECTION 32. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The determinations required by section 18(1), (2), (3), and (6); section 19(1), (2), and (3); section 20; section 22, section 23(1); section 25(3); and section 27(1) of this code shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

SECTION 33. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When for any reason collusion is suspected among any bidders or offerors, a written notice of the facts giving rise to such suspicion shall be transmitted to the attorney general.

(2) All documents involved in any procurement in which collusion is suspected shall be retained until the attorney general gives notice that they may be released, and all such documents shall be made available to the attorney general or his designee upon request.

SECTION 34. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A report shall be compiled annually by the chief purchasing officer, within ninety (90) days following the close of the fiscal year, of contracts made under section 20 of this code during that preceding fiscal year. The report shall:

(a) Name each contractor;

(b) State the amount and type of each contract;

(c) Describe the supplies, services, or construction purchased by each contract; and

(d) Include as attachments copies of all determinations and findings required to be made by provisions of this code and implementing regulations.

(2) Reports required under subsection (1) of this section shall be retained for a period of five (5) years and shall be made available to the general assembly and the public upon request.

SECTION 35. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The division of state purchasing shall have responsibility for issuing and maintaining all standard specifications for supplies, services, and construction required by the Commonwealth. Among its duties, it shall, to the greatest extent practicable:

(a) Prepare and issue standard specifications for supplies, services, and construction commonly required by the Commonwealth;

(b) Revise all standard specifications to conform to all technical and scientific advances pertaining to the supplies, services, and construction described in those specifications and to reflect changes in the Commonwealth's requirements; and

(c) Establish guidelines for drafting specifications.

(2) All specifications shall be drafted so as to maximize, to the extent practicable, competition in fulfillment of the Commonwealth's requirements.

SECTION 35. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in sections 35 through 41 of this code, "architect" or "engineer" services shall mean those professional services within the scope of practice of architecture, professional engineering, or registered land surveying, pertaining to construction, as defined by the laws of this Commonwealth.

SECTION 36. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The secretary of the executive department for finance and administration shall issue regulations providing for as many alternative methods of management of construction contracting as he may determine to be feasible, setting forth criteria to be used in determining which method of management of construction is to be used for a particular project, and granting to the chief purchasing officer, or the purchasing agency responsible for carrying out the construction project, the discretion to select the appropriate method of construction contracting for a particular project, provided, however, that the purchasing officer shall execute and include in the contract file a written statement setting forth the facts which led to the selection of a particular method of management of construction contracting in each instance.

SECTION 37. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the Commonwealth to exceed twenty-five thousand dollars ($25,000). Bidders's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the Commonwealth. Nothing herein prevents the requirement of such bonds on construction contracts under twenty-five thousand dollars ($25,000) when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, non-compliance requires that the bid be rejected, provided, however, that the secretary of the executive department for finance and administration may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

SECTION 38. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When a construction contract is awarded in an amount in excess of twenty-five thousand dollars ($25,000), the following bonds shall be furnished to the Commonwealth, and shall binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section.

(3) Every person who has furnished labor or material to the contractor or his subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final judgment and execution for the sum justly due him; provided, however, that any person having a direct contractual relationship with a subcontractor of the contractor, but no contractual relationship express or implied with the contractor

furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office or conducts his business, or his residence.

(4) Every suit instituted under this section may be brought in the appropriate court in this Commonwealth having jurisdiction over the site on which the contract was to be performed, but no such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be named and made a party in any such suit.

SECTION 39. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the executive department for finance and administration shall promulgate by regulation the form of the bonds required by sections 35 through 41 of this code.

(2) The purchasing agency shall furnish a certified copy of a bond to any person who requests such and pays a reasonable fee for such copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

SECTION 40. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) For all construction contracts expected to exceed fifty thousand dollars ($50,000) in price, the secretary of the executive department for finance and administration shall specify clauses providing for adjustments to contract terms and conditions where there has been:

(a) A unilaterally ordered change by the Commonwealth; or

(b) A site condition differing from that indicated in the contract except for turnkey contracts or negotiated contracts when appropriate written findings of fact have been made; or

(c) Variation in the estimated quantities in a contract providing for estimated quantities; or

(d) A unilateral suspension of work by the Commonwealth.

(2) In addition, there shall also be specified for inclusion in all construction contracts expected to exceed fifty thousand dollars ($50,000) in price a clause providing that a contract may be terminated for the convenience of the Commonwealth or for default, and further providing for liquidated damages when appropriate and as specified in the contract schedule, with excuses for non-performance specifically provided for therein.

(3) The above specified clauses and conditions required for inclusion in all construction contracts expected to exceed fifty thousand dollars ($50,000) in price shall be available for optional use in other construction contracts.

SECTION 41. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) It shall be the policy of this Commonwealth publicly announce all requirements for architectural and engineering services, and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

(2) In the procurement of architectural and engineering services, the chief purchasing officer shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The chief purchasing officer shall evaluate current statements of qualifications and performance data on file with the Commonwealth, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three (3) firms regarding anticipated design concepts and the relative utility of alternative methods of approach for furnishing the required services, and shall then select therefrom, in order of preference, based upon criteria established and published by him, no less than three (3) of the firms deemed to be the most highly qualified to provide the services required.

(3) The chief purchasing officer shall negotiate a contract with the highest qualified firm for architectural and engineering services at compensation which the chief purchasing officer determines in writing to be fair and reasonable to the Commonwealth. In making this decision, the chief purchasing officer shall take into account the estimated value of the services to be rendered, the scope, complexity, and professional nature thereof. Should the chief purchasing officer be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the chief purchasing officer determines to be fair and reasonable to the Commonwealth, negotiations with that firm shall be formally terminated. The chief purchasing officer shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the chief purchasing officer shall formally terminate negotiations. The chief purchasing officer

shall then undertake negotiations with the third most qualified firm. Should the chief purchasing officer be unable to negotiate a satisfactory contract with any of the selected firms, the chief purchasing officer shall select additional firms in order of their competence and qualification and the chief purchasing officer shall continue negotiations in accordance with this section until an agreement is reached.

(4) Sections 17, 18, 19, 20, 21, and 32 of this code shall not apply to architect-engineer contracting under this section.

SECTION 42. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the executive department for finance and administration is authorized to issue regulations permitting or requiring the insertion, in contracts for the procurement of supplies or services, of appropriate clauses to enable the Commonwealth to effect desired changes and modifications to such contracts.

(2) The secretary is authorized to issue regulations relating to the termination of contracts for the procurement of supplies or services for the default of the contractor.

(3) The secretary is authorized to issue regulations relating to the termination of contracts for the procurement of supplies or services for the convenience of the Commonwealth.

SECTION 43. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The secretary of the executive department for finance and administration shall issue regulations setting forth cost principles which shall be used:

(1) As guidelines in the negotiation of :

(a) Estimated costs of fixed prices when the absence of open market competition precludes the use of competitive sealed bidding;

(b) Adjustments for state-directed changes or modifications in contract performance; and

(c) Settlements of contracts which have been terminated.

(2) To determine the allowability of incurred costs for the purpose of reimbursing costs under contract provisions which provide for the reimbursement of costs; and

(3) As appropriate in any other situation where the determination of the estimated or the incurred costs of performing contracts may be required.

SECTION 44. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The division of purchasing of the executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the executive department for finance and administration. The determination of the secretary of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the executive department for finance and administration and approved by the governor. Unless the secretary of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department, or department of transportation for such requirements of that department.

SECTION 45. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of sections 45 through 58 of this code, court means the court of this Commonwealth which would have original jurisdiction over the action if it were between private citizens of this Commonwealth; and in the event of an appeal from such a court, the court which would have jurisdiction over such an appeal if the action were between private citizens of this Commonwealth.

(2) Sections 45 through 58 of this code apply only to each contract solicited or entered into after January 1, 1979.

SECTION 46. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Prior to the institution of any action in a court concerning any contract, claim, or controversy, the secretary of the executive department for finance and administration is authorized, subject to any limitations or conditions imposed by regulations, to settle, compromise, pay, or otherwise adjust the claim by or against, or controversy with, a contractor relating to a contract entered into by the executive department for finance and administration on behalf of the Commonwealth or any state agency, including a claim or controversy based on breach of contract, mistake, misrepresentation, or other cause for contract modification or rescission, but excluding any claim or controversy involving penalties or forfeitures prescribed by statute or regulation where an official other than the secretary of the executive department for finance and administration is specifically authorized to settle or determine such controversy.

SECTION 47. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

This section shall apply to a claim by or controversy arising under contracts between the Commonwealth and its contractors. If such a claim or controversy is not resolved by mutual agreement, the chief purchasing officer or the secretary of the executive department for finance and administration, or his designee, shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the contractor. The decision shall be final and conclusive unless fraudulent, or unless the contractor sues pursuant to section 49 of this code. If the chief purchasing officer or the secretary of the executive department for finance and administration does not issue a written decision within one hundred and twenty (120) days after written request for a final decision, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision had been received.

SECTION 48. KRS 44.260 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

As used in *sections 45 to 58 of this code* [KRS 44.260 to 44.330], unless the context requires otherwise:

(1) "Commonwealth" means the commonwealth of Kentucky and any of its departments or agencies.

(2) "Contracting agency" means any department or agency of the commonwealth of Kentucky having entered into a lawfully authorized written contract.

SECTION 49. KRS 44.270 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A, TO READ AS FOLLOWS:

(1) Any person, firm or corporation, having a lawfully authorized written contract with the Commonwealth at the time of or after June 21, 1974, may bring an action against the Commonwealth on the contract, including but not limited to actions either for breach of contracts or for enforcement of contracts or for both. Any such action shall be brought in the Franklin Circuit Court and shall be tried by the court sitting without a jury. All defenses in law or equity, except the defense of governmental immunity, shall be preserved to the Commonwealth.

(2) If damages awarded on any contract claim under this section exceed the original amount of the contract, such excess shall be limited to an amount which is equal to the amount of the original contract.

SECTION 50. KRS 44.280 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

The court shall enter its findings as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil cases subject to the provisions of *section 54 of this code* [KRS 44.330].

SECTION 51. KRS 44.300 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A TO READ AS FOLLOWS:

Appeals may be taken to the Court of Appeals from Franklin Circuit Court under the same conditions and under the same practice as appeals are taken from judgments in civil causes rendered by circuit courts.

SECTION 52. KRS 44.310 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A, TO READ AS FOLLOWS:

Any such claim shall be commenced in Franklin Circuit Court within one (1) year from the date of completion specified in the contract.

SECTION 53. KRS 44.320 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A, TO READ AS FOLLOWS:

No person, firm, or corporation shall be permitted more than one (1) money recovery upon a claim for the enforcement of or for breach of contract with the Commonwealth.

SECTION 54. KRS 44.330 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

(1) Each agency which has had an award or judgment against it upon a claim filed pursuant to KRS *sections 48 through 54 of this code* [44.260 to 44.330] shall furnish a certified copy of the award of judgment to the Executive Department for Finance and Administration. The first five hundred thousand dollars of any award or judgment against the Bureau of Highways, Department of Transportation, shall be paid out of the state road fund, upon warrants drawn by the Commissioner of the Executive Department for Finance and

Administration upon the State Treasurer. The first five hundred thousand dollars of any award or judgment against other departments or agencies of the state, which are not maintained by appropriations out of the general fund, shall be paid out of the funds created or collected for the maintenance and operation of such department or agency, upon warrants drawn by the Commissioner of the Executive Department for Finance and Administration upon the State Treasurer. The first five hundred thousand dollars of any award or judgment against all other departments and agencies of the state shall be paid out of the general fund, upon warrants drawn by the Commissioner of the Executive Department for Finance and Administration upon the State Treasurer.

(2) The Executive Department for Finance and Administration shall request an appropriation from the next regular session of the general assembly for the purpose of satisfying all such awards and judgments granted during the preceding two (2) fiscal years which are not satisfied under subsection (1) of this section.

SECTION 55. KRS 44.340 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

The first five hundred thousand dollars ($500,000) of any Kentucky court judgment against the Commonwealth awarding damages on a contract claim under the provisions of *sections 48 through 54 of this code* [KRS 44.260 to KRS 44.330] shall be a necessary governmental expense and payment shall be approved by the executive department for finance and administration and paid by the state treasurer. Appropriations for these judgments shall be continued appropriations.

SECTION 56. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The decision of any official, board, agent, or other person appointed by the Commonwealth concerning any controversy arising under, or in connection with, the solicitation or award of a contract, shall be entitled to a presumption of correctness and shall not be disturbed unless the decision was procured by fraud or the findings of fact by such official, board, agent or other person do not support the decision.

SECTION 57. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The chief purchasing officer, or the secretary of the executive department for finance and administration, or his designee shall have authority to determine protests and other controversies of actual or prospective bidders or offerors in connection with the solicitation or selection for award of a contract.

(2) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or selection for award of a contract may file a protest with the chief purchasing officer, or the secretary of the executive department for finance and administration. A protest or notice of other controversy must be filed promptly and in any event within two (2) calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversies must be in writing.

(3) The chief purchasing officer, or the secretary of the executive department for finance and administration shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

(4) The decision by the chief purchasing officer, or the secretary of the executive department for finance and administration shall be final and conclusive.

SECTION 58. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

In the event of a protest timely filed under section 57(2) of this code, the Commonwealth shall not proceed further with the solicitation or award involved, until the chief purchasing officer, or the head of the purchasing agency, or his designee, makes a written and adequately supported determination that continuation of the procurement is necessary to protect substantial interests of the Commonwealth.

SECTION 59. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in sections 59 through 64 of this code:

(1) "State public purchasing unit" mean the division of state purchasing and any other purchasing agency of this Commonwealth.

(2) "Local public purchasing unit" shall mean any county, city, governmental entity and other subdivision of the Commonwealth or public agency thereof, public authority, public educational, health, or other institution, any other entity which expends public funds for the acquisition or leasing of supplies, services, and construction, and any nonprofit corporation operating a charitable hospital.

(3) "Public purchasing unit" shall mean either a local public purchasing unit or a state public purchasing unit.

(4) "Foreign purchasing activity" shall mean any buying organization not located in this Commonwealth which, if located in this Commonwealth, would qualify as a public purchasing unit. An agency of the United States government is a foreign purchasing activity.

(5) "Cooperative purchasing" shall mean purchasing conducted by, or on behalf of, more than one public purchasing unit, or by a public purchasing unit with a foreign purchasing activity.

SECTION 60. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Any public purchasing unit may either participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of any supplies, services, or construction with any other public purchasing unit or foreign purchasing activity, in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to, joint contracts between public purchasing units and access by local public purchasing units to open-ended state public purchasing unit contracts.

(2) Nothing in this code shall limit any public purchasing unit from selling to, acquiring from, or using any property belonging to another public purchasing unit or foreign purchasing activity independent of the requirements of section 15 through 34 and section 44 of this code.

(3) Nothing in this code shall limit or restrict any public purchasing unit from entering into an agreement, independent of the requirements of sections 15 through 34 and section 44 and of this code, with any other public purchasing unit or foreign purchasing activity for the cooperative use of supplies or services.

(4) Any public purchasing unit may enter into an agreement for the joint or common use of warehousing facilities or the lease or common use of capital equipment or facilities with any other public purchasing unit or a foreign purchasing activity subject to such terms as may be agreed upon between the parties.

SECTION 61. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Any public purchasing unit is authorized, within its discretion, upon written request from another public purchasing unit or foreign purchasing activity, to provide personnel to the requesting public purchasing unit or foreign purchasing activity. Payment to the public purchasing unit providing the personnel, by the public purchasing unit or foreign purchasing activity making the request, of direct and indirect costs of furnishing the personnel, and the terms relating thereto shall be agreed upon by the parties involved.

(2) The informational, technical, and other services of any public purchasing unit may be made available to any other public purchasing unit or foreign purchasing activity provided that the requirements of the public purchasing unit tendering the services shall have precedence over the requesting public purchasing unit or foreign purchasing activity. Additionally, and subject to agreement between the parties, the requesting public purchasing unit or foreign purchasing activity shall pay all of the expenses of the services so provided.

(3) This Commonwealth, through the chief purchasing officer, upon request may make available to all public purchasing units the following services, among others:

(a) Standard forms;
(b) Printed manuals;
(c) Product specifications and standards;
(d) Quality assurance testing services and methods;
(e) Qualified products lists;
(f) Sourcing information;
(g) Common use commodities listings;
(h) Supplier prequalification information;
(i) Supplier performance ratings;
(j) Debarred and suspended bidders list;
(k) Forms for invitations for bids, requests for proposals, instructions to bidders, general contract provisions, and other contract forms; and
(l) Contracts or published summaries thereof, including price and time of delivery information.

(4) The Commonwealth, through the chief purchasing officer, may provide the following technical services, among others:

(a) Development of products specifications;
(b) Development of quality assurance test methods, including receiving, inspection, and acceptance procedures;
(c) Use of state product testing and inspection facilities; and
(d) Use of state personnel training programs.

(5) The chief purchasing officer may publish a schedule of fees for the services provided under subsections (3) and (4) of this section.

SECTION 62. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) All payments received by a supplying public purchasing unit from any other public purchasing unit or foreign purchasing activity shall be available or appropriated to the supplying public purchasing unit to defray the cost of the services provided.

(2) Where the public purchasing unit or foreign purchasing activity administering a cooperative purchase complies with the requirements of this code, any public purchasing unit participating in such a purchase shall be deemed to have complied with this code.

(3) Where the public purchasing unit or foreign purchasing activity administering a cooperative purchase does not follow this code, then the chief purchasing officer, or equivalent official in any participating local public purchasing unit, must determine, in writing, that he has examined the procurement system of the public purchasing unit or foreign purchasing activity administering the purchase, and has found that the proposed method of purchase substantially meets the requirements of this code.

(4) The chief purchasing officer shall collect information concerning the type, cost, quality, and quantity of commonly used supplies, services, or construction being procured or used by state public purchasing units. The chief purchasing officer may also collect such information from local public purchasing units. The chief purchasing officer may make available all such information to any public purchasing unit upon request.

SECTION 63. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Any local public purchasing unit is authorized to:

(1) Enter into an agreement with any other local public purchasing unit to establish a procedure to resolve disputes arising from the contracts of the participating local public purchasing units; and

(2) Enter into an agreement with any state administrative agency designed to resolve contract disputes to use such agency to resolve disputes arising from the contracts of any local public purchasing unit.

SECTION 64. A NEW SECTION OF THE CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

If federal grant or other federal requirements differ from the provisions of this code or regulations adopted hereunder, nothing in this code or its regulations shall inhibit any public purchasing unit from complying with the terms and conditions of the federal grant or other federal requirements.

SECTION 65. KRS 45.460 IS REPEALED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A, TO READ AS FOLLOWS:

Any agreement or collusion among bidders or prospective bidders which restrains, tends to restrain, or is reasonably calculated to restrain competition by agreement to bid at a fixed price, or to refrain from bidding, or otherwise, is prohibited.

SECTION 66. KRS 61.092 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

The purpose of *sections 66 through 68 of this code* [KRS 61.092 to 61.096] is to prescribe specific standards to guide public officers and employes in the conduct of their offices or employment, and to proscribe improper conduct to the extent to which such conduct may be sufficiently described to enable statutory prohibitions against it to be properly enforced. It is at the same time recognized that under a free government it is both necessary and desirable that all citizens should have certain specific interests in the decisions of government, and that the activities and conduct of public officers and employes should not be unduly circumscribed.

SECTION 67. KRS 61.094 IS REPEALED, AMENDED AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A, TO READ AS FOLLOWS:

As used in *sections 66 through 68 of this code* [KRS 61.092 to 61.096] except as may be otherwise indicated by the context:

(1) "Agency" means any of the departments of the state government, and any division, board, bureau, commission or other instrumentality within such department and any independent state authority, commission, instrumentality or agency, but it does not include an authority, commission, instrumentality or agency created pursuant to compact or agreement between or among the state of Kentucky and another state or states;

(2) "Officer or employe" means a person holding an office, position or employment in an agency, but it does not include persons who serve without salary or other payment for their services and it does not include employes of school boards or district boards of education *or faculty or staff of state institutions of higher learning*;

(3) "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered, but it does not include the salary or other payment provided by law or appropriation for services rendered in a public office, position or employment.

SECTION 68. KRS 61.096 IS AMENDED TO READ AS FOLLOWS AND RE-ENACTED AS A NEW SECTION OF KRS CHAPTER 45A:

(1) No officer or employe of the general assembly, or officer or employe of an agency as defined in *section 67 of this code* [KRS 61.094], shall knowingly receive or agree to receive, directly or indirectly,

compensation for any services to be rendered, either by himself or another, in negotiations with the state or an agency for the purchase by the state or an agency of an interest in real property. This section shall not apply to appearances before any court, except that negotiations shall be prohibited as aforesaid at any time.

(2) No officer or employe of an agency or member of a state board or commission, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which such officer or employe may be called upon to act or vote. No such officer or employe may represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which such officer or employe may be called upon to act or vote. Nor may any such officer or employe take, solicit or receive, either directly or indirectly, any money or other thing of value as a gift or bribe or means of influencing his vote or action in his official character. Any contract made and procured in violation hereof is void. For the purposes of this section the holding of less than five per cent (5%) of the stock of a corporation is not considered an interest.

(3) No officer or employe of the general assembly or officer or employe of any agency shall, for compensation, appear before an agency as an expert witness.

(4) No officer or employe of the general assembly, or officer or employe of any agency, shall act as officer or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association or firm in which he or his spouse has any interest greater than five per cent (5%) of the total value thereof.

(5) No officer or employe of an agency or appointee shall knowingly himself or by his partners or through any corporation which he controls or in which he owns or controls more than ten per cent (10%) of the stock, or by any other person for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract or agreement for sale or purchase, as provided by KRS Chapter 45 *or this code*, made, entered into, awarded or granted by any agency, unless the provisions of KRS Chapter 45 *and this code* are complied with.

(6) No officer, employe or appointee of an agency, including persons who serve without salary or other payment for their services, shall knowingly receive or agree to receive, directly or indirectly, compensation for any services rendered or to be rendered, either by himself or another, in any cause, proceeding, application or other matter which is before said agency or before the department of state government in which said agency functions.

SECTION 69. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any of the provisions of section 65 of this code shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or be imprisoned not less than one (1) year nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation, or association which violates any of the provisions of Section 65 of this code shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(2) Any person who violates any provisions of sections 66 through 68 of this code, upon conviction, shall be punished by confinement in the penitentiary for not less than six (6) months, nor more than two (2) years, or fined not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or both, and in addition he shall be adjudged to have forfeited any statutory office or employment which he may hold.

(3) Any violation of this code shall be punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not more than five (5) years, or by both fine and imprisonment in the discretion of the jury.

(4) Any employe of the division of state purchasing, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(5) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employe of the division of purchases or to any official of the commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

SECTION 70. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 70 through 94 of this code, unless the context indicates otherwise:

(1) "Chief executive officer" shall mean the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.

(2) "Construction" shall mean the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routing repair, or routine maintenance of existing structures, buildings, or real property.

(3) "Contract" shall mean all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employes of local public agencies.

(4) "Established catalogue price" shall mean the price included in the most current catalogue, price list, schedule, or other form that:

(a) Is regularly maintained by the manufacturer or vendor of an item; and

(b) Is either published or otherwise available for inspection by customers; and

(c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.

(5) "Evaluated bid price" shall mean the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, and residual value.

(6) "Invitation for bids" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in Section 74 of this code.

(7) "The legislative body or governing board" shall mean a council, commission or other legislative body of a city or urban county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.

(8) "Local public agency" shall mean a city, county, urban-county, school district, special district, or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner and jailer.

(9) "May" shall mean permissive. However, the words "no person may..." mean that no person is required, authorized, or permitted to do the act prescribed.

(10) "Negotiation" shall mean contracting by either the method set forth in Section 75 of this code, Section 76 of this code, or that set forth in Section 77 of this code.

(11) "Person" shall mean any business, individual, union, committee, club, or other organization or group of individuals.

(12) "Procurement" shall mean the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(13) "Request for proposals" shall mean all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in Sections 75, 76, 77 or 78 of this code.

(14) "Responsible bidder or offeror" shall mean a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.

(15) "Responsive bidder" shall mean a person who has submitted a bid under Section 74 of this code which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.

(16) "Services" shall mean the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employes of local public agencies.

(17) "Shall" shall mean imperative.

(18) "Specifications" shall mean any description of a physical or functional characteristic of a supply, service or construction item. It may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery.

(19) "Supplemental agreement" shall mean any contract modification which is accomplished by the mutual action of the parties.

(20) "Supplies" shall mean all property, including but not limited to leases on real property, printing and insurance, except land or a permanent interest in land.

SECTION 71. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Sections 70 through 94 of this code shall apply to every local public agency in this state. Any legislative body or governing board may adopt any of the other provisions of this code, and may make modifications of such provisions, provided, however, that such modifications shall not be inconsistent with the Kentucky procurement code.

SECTION 72. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Every determination required by this code shall be in writing and based upon written findings of the public official making the determination. These determinations and written findings shall be retained in the official contract file.

(2) The determinations required by Sections 70 through 94 of this code shall be final and conclusive unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

SECTION 73. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A local public agency may adopt regulations, not inconsistent with Sections 70 through 94 of this code, governing the following:

(a) Conditions and procedures for delegations of purchasing authority;

(b) Prequalification, suspension, debarment, and reinstatement of prospective bidders;

(c) Modification and termination of contracts;

(d) Conditions and procedures for the purchase of perishables and items for resale;

(e) Conditions, including emergencies, and procedures under which purchases may be made by means other than competitive sealed bids;

(f) Rejection of bids, consideration of alternate bids and waiver of informalities and offers;

(g) Confidentiality of technical data and trade secrets information submitted by actual and prospective bidders or offerors;

(h) Partial, progressive and multiple awards;

(i) Supervision of store rooms and inventories, including determination of appropriate stock levels and the management, transfer, sale or other disposal of government-owned property;

(j) Definitions and classes of contractual services and procedures for acquiring them;

(k) Procedures for the verification and auditing of local public agency procurement records; and

(l) Such other regulations as may be deemed advisable to carry out the purposes of Sections 70 through 94 of this code or otherwise fulfill the local public agency's procurement responsibilities.

(2) All local public agency ordinances and regulations pertaining to procurement, whether promulgated under Sections 70 through 94 of this code or otherwise, shall be maintained by the local public agency and shall be available to the public upon request at a cost not to exceed the cost of reproduction.

SECTION 74. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) All contracts or purchases shall be awarded by competitive sealed bidding, except as otherwise provided by Sections 75, 76 and 77 of this code.

(2) The invitation for bids shall state whether the award shall be made on the basis of the lowest bid price or the lowest evaluated bid price. If the latter is used, the objective measureable criteria to be utilized shall be set forth in the invitation for bids.

(3) The public shall be given notice of the invitation for bids for advertisement in the newspaper of largest circulation in the local jurisdiction at least once not less than seven (7) days nor more than twenty-one (21) days before the date set for the opening of the bids. The advertisement shall include the time and place the bids will be opened and the time and place where the specifications may be obtained.

(4) The bids shall be opened publicly at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and be open to public inspection.

(5) A contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price.

(6) The local public agency may allow the withdrawal of a bid where there is a patent error on the face of the bid document, or where the bidder presents sufficient evidence, substantiated by bid worksheets, that the bid was based upon an error in the formulation of the bid price.

SECTION 75. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A local public agency may contract or purchase through competitive negotiation upon a written finding that:

(a) Specifications cannot be made sufficiently specific to permit award on the basis of either the lowest bid price or the lowest evaluated bid price, including, but not limited to, contracts for experimental or developmental research work, or highly complex equipment which requires technical discussions, and other nonstandard supplies, services, or construction; or

(b) Sealed bidding is inappropriate because the available sources of supply are limited, the time and place of performance cannot be determined in advance, the price is regulated by law, or a fixed price contract is not applicable; or

(c) The bid prices received through sealed bidding are unresponsive or unreasonable as to all or part of the requirements, or are identical or appear to have been the result of collusion; provided each responsible bidder is notified of the intention to negotiate and is given a reasonable opportunity to negotiate, and the negotiated price is lower than the lowest rejected bid by any responsible bidder.

(2) Proposals shall be solicited through advertisement pursuant to Section 74(3) of this code or any other means which can be demonstrated to notify an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirement of the procurement. The request for proposals shall indicate the factors to be considered in the evaluation and the relative importance of each factor.

(3) Written or oral discussions shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors. Discussions need not be conducted:

(a) With respect to prices, where such prices are fixed by law or regulation except that consideration shall be given to competitive terms and conditions; or

(b) Where time of delivery or performance will not permit discussions; or

(c) Where it can be clearly demonstrated and documented from the existence of adequate competition or accurate prior cost experience with that particular supply, service or construction item that acceptance of an initial offer without discussion would result in fair and reasonable prices and the request for proposal notifies all offerors of the possibility that award may be made on the basis of initial offers.

(4) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions. A request for proposals based on revised specifications or quantities shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror. No discussion shall be conducted with offerors after submission of revised proposals except for a compelling reason as determined in writing by the local public agency. The request for proposals shall state that an award is to be made without discussion except as herein provided.

(5) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the local public agency based upon the evaluation factors set forth in the request for proposals.

SECTION 76. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) In the event that all bids submitted pursuant to competitive sealed bidding under Section 74 of this code result in bid prices in excess of the funds available for the purchase, and the local public agency determines in writing:

(a) That there are no additional funds then available from any source so as to permit an award to the lowest responsive and responsible bidder; and

(b) The best interest of the local public agency will not permit the delay attendant to a resolicitation under revised specifications or revised quantities under competitive sealed bidding as provided in Section 74 of this code;

then a negotiated award may be made as set forth in subsections (2) or (3) of this section.

(2) Where there is more than one (1) bidder, competitive negotiations pursuant to Section 75 of this code shall be conducted with the three (two if there are only two) bidders determined in writing by the local public agency to be the lowest responsive and responsible bidders to the competitive sealed bid invitation. Such competitive negotiations shall be conducted under the following restrictions:

(a) If discussions pertaining to the revision of the specifications or quantities are held with any potential offeror, all other potential offerors shall be afforded an opportunity to take part in such discussions; and

(b) A request for proposals, based upon revised specifications or quantities, shall be issued as promptly as possible, shall provide for an expeditious response to the revised requirements, and shall be awarded upon the basis of the lowest bid price or lowest evaluated bid price submitted by any responsive and responsible offeror. No discussion shall be conducted with offerors after submission of proposals except for a compelling reason as determined in writing by the local public agency. The request for proposals shall state that award is to be made without discussions except as herein provided.

(3) Where, after competitive sealed bidding, it is determined in writing that there is only one (1) responsive and responsible bidder, a noncompetitive negotiated award may be made with such bidder in accordance with Section 80 of this code.

SECTION 77. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOW:

(1) A local public agency may contract or purchase through noncompetitive negotiation only when a written determination is made that competition is not feasible and it is further determined in writing by the local public agency that:

(a) An emergency exists which will cause public harm as a result of the delay in competitive procedures; or

(b) There is a single source of the product or service to be procured; or

(c) The contract is for the services of a licensed professional, and the services are to be rendered in a personal representative capacity, provided, however, that this provision shall not apply to architects or engineers providing construction management services; or

(d) The contract is for the purchase of perishable items purchased on a weekly or more frequent basis, such as fresh fruits, vegetables or fish.

(2) A report shall be compiled annually and submitted to the legislative body or governing board, within ninety (90) days following the close of the fiscal year, of all contracts made through noncompetitive negotiation during such fiscal year and the report shall contain:

(a) The name of each contractor; and

(b) The amount and type of each contract; and

(c) A description of the supplies, services and construction purchased by each contract; and

(d) Copies of all determinations and findings required to be made by provisions of this section as attachments.

(3) Reports required by Section 77(1) of this code shall be retained for a period of five (5) years and shall be available for public inspection and copying upon reasonable request.

SECTION 78. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The local public agency shall establish small purchase procedures which shall be in writing and available to the public.

(2) Small purchase procedures may be used for the award of any contract or purchase which does not exceed an aggregate amount of twenty-five hundred dollars ($2,500).

(3) Supplies, services or construction normally supplied as a unit cannot be artifically divided for the sole purpose of using small purchase procedures. Supplies, services or construction to be supplied over a period of time at the same unit price shall be considered a single purchase contract. A contract may be for any period of time that will provide the most beneficial market price to the local public agency, provided no time period shall be fixed for the sole purpose of avoiding the requirements of competitive sealed bidding or negotiation.

SECTION 79. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

An invitation for bid, a request for proposal or other solicitation may be cancelled, or all bids or proposals may be rejected, if it is determined in writing that such action is in the best interest of the local public agency.

SECTION 80. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A written determination of responsibility of a bidder or offeror shall be made, based on a reasonable inquiry conducted by the local public agency. The unreasonable failure of a bidder or offeror to promptly supply information upon request may be grounds for a determination of nonresponsibility of such bidder or offeror.

(2) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the local public agency without prior written consent of the bidder or offeror.

SECTION 81. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Suppliers may be prequalified as responsible prospective contractors for particular types of supplies, services and construction. Solicitation mailing lists of potential contractors of such supplies, services and construction shall include, but shall not be limited to, such prequalified prospective contractors. Prequalification shall not foreclose a written determination:

(1) Between the time of bid opening or receipt of offers in the making of an award that a prequalified prospective contractor is not responsible; or

(2) That a prospective contractor who is not prequalified at the time of bid opening or receipt of offers is responsible.

SECTION 82. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A contractor shall submit cost or pricing data and shall certify that, to the best of his knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a mutually determined specified date prior to the date of:

(a) Pricing of any negotiated contract where the total contract price is expected to exceed fifty thousand dollars ($50,000), or such lesser amount as may be prescribed by the local public agency; or

(b) Pricing of any change order or contract modification which is expected to exceed twenty-five thousand dollars ($25,000), or such lesser amount as may be prescribed by the local public agency.

(2) Any contract, change, or modification thereto under which a certificate is required shall contain a provision that the price to the local public agency, including profit or fee, shall be adjusted to exclude any significant sums by which the local public agency finds that such price was increased because the contractor-furnished cost or pricing data which, as of the date agreed upon between the parties, was inaccurate, incomplete, or not current.

(3) The requirement of this section need not be applied to contracts where the price negotiated is based on adequate price competition, established catalogue or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation, or in exceptional cases where it is determined in writing that the requirements of this section may be waived, and the reasons for such waiver are enumerated in the determination.

SECTION 83. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The local public agency may inspect the plant or place of business of a contractor or any subcontractor under any contract awarded or to be awarded by the local public agency.

(2) The local public agency may audit the books and records of any person who has submitted cost or pricing data under Section 82 of this code, at any time until the period of record retention as set forth in subsection (3) of this section shall have expired. The right to audit hereunder shall only extend to those books and records reasonably connected with cost or pricing data submitted under Section 85 of this code, and such books and records shall be maintained by the contractor or subcontractor for the period specified in subsection (3) of this section.

(3) The local public agency shall be entitled to audit the books and records of a contractor or any subcontractor under any negotiated contract or subcontract other than a firm fixed-price type contract, provided, however, that this subparagraph shall not limit the right to audit as set forth in subsection (2) of this section. Such books and records shall be maintained by the contractor for a period of five (5) years from the date of final payment under the prime contract and by the subcontractor for a period of five (5) years from the date of final payment under the subcontract.

SECTION 84. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The local public agency shall use specifications which assure the maximum practicable competition to meet the agency's needs.

(2) A specification which describes a product which is proprietary to one (1) company may be used only when:

(a) No other kind of specification is reasonably available to describe requirements; and

(b) Such specification includes language which specifically permits an equivalent product to be supplied. Such specification shall include a description of the salient characteristics of the product.

SECTION 85. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

Any local public agency may enter into an agreement for cooperative purchasing with any other local public agency. When the contracting local public agency contracts for supplies, services or construction pursuant to Sections 74, 75, 76, or 77 of this code, all other parties to the agreement shall be deemed to have complied with the provisions of those sections.

SECTION 86. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A local public agency may sell or otherwise dispose of any personal property which is not needed or has become unsuitable for public use, or which would be suitable, consistent with the public interest, for some other use.

(2) A written determination as to need of suitability of any personal property of the local public agency shall be made; and such determination shall fully describe the personal property; its intended use at the time of

acquisition; the reasons why it is in the public interest to dispose of the item; and the method of disposition to be used.

(3) Surplus or excess personal property as described in this section may be transferred, with or without compensation, to another governmental agency; or it may be sold at public auction or by sealed bids in accordance with Section 74 of this code.

SECTION 87. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the local public agency to exceed twenty-five thousand dollars ($25,000). Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the local public agency. Nothing herein prevents the requirement of such bonds on construction contracts under twenty-five thousand dollars ($25,000) when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided, however, that the local public agency may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

SECTION 88. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

When a construction contract is awarded in an amount in excess of twenty-five thousand dollars ($25,000), the following bonds shall be furnished to the local public agency, and shall become binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the local public agency executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the local public agency, executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, for the protection of all persons supplying labor and material to the contractor or his subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the local public agency to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section, including, but not limited to, bonds for the payment of taxes and unemployment insurance premiums.

(3) Every person who has furnished labor or material to the contractor or his subcontractors for the work provided in the contract, in respect of which a payment bond is furnished under this section, and who has not been paid in full therefor before the expiration of a period of ninety (90) days after the day on which the last of the labor was done or performed by him or material was furnished or supplied by him for which such claim is made, shall have the right to sue on the payment bond for the amount, or the balance thereof, unpaid at the time of institution of such suit and to prosecute said action to final judgment and execution for the sum or sums justly due him; provided, however, that any person having a direct contractual relationship with a subcontractor of the contractor, but no contractual relationship express or implied with the contractor furnishing said payment bond, shall have a right of action upon the payment bond upon giving written notice to the contractor within ninety (90) days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material upon which such claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. Such notice shall be personally served or served by mailing the same by registered or certified mail, postage prepaid, in an envelope addressed to the contractor at any place he maintains an office or conducts his business, or his residence.

(4) Every suit instituted under this section may be brought in the appropriate court in this Commonwealth having jurisdiction over the site on which the contract was to be performed, but no such suit shall be commenced after the expiration of one (1) year after the day on which the last of the labor was performed or material was supplied by the person bringing suit. The obligee named in the bond need not be named and made a party in any such suit.

SECTION 89. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The local public agency may promulgate by regulation the form of the bonds required by Sections 87 and 88 of this code, or it may adopt the form established by the state under Sections 35 through 41 of this code.

(2) The local public agency shall furnish a certified copy of a bond to any person who requests such and pays the reasonable fee for such copy. The copy shall be prima facie evidence of the contents, execution, and delivery of the original.

SECTION 90. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 90 through 94 of this code, unless the context indicates otherwise:

(1) "Conspicuously" shall mean written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

(2) "Confidential information" shall mean any information which is available to an employe only because of his status as an employe of the local public agency and is not a matter of public knowledge or available to the public on request.

(3) "Debarment" shall mean the disqualification of a person to receive invitations for bids or requests for proposals, or the award of a contract by the local public agency for a specified period of time.

(4) "Financial interest" shall mean:

(a) Ownership of any interest or involvement in any relationship from which, or as a result of which, a person has, within the past three (3) years, received or is presently or in the future entitled to receive more than one thousand dollars ($1,000) per year, or its equivalent; or

(b) Ownership of more than a ten percent (10%) interest in any business; or

(c) Holding a position in a business such as an officer, director, trustee, partner, employe, or the like, or holding any position of management.

(5) "Gratuity" shall mean a payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(6) "Immediate family" shall mean a spouse, children, grandchildren, parents, grandparents, brothers and sisters, and such other relatives as designated by the local public agency.

(7) "Official responsibility" shall mean direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, either personally or through subordinates, to approve, disapprove, or otherwise direct local public agency actions.

(8) "Suspension" shall mean the disqualification of any person to receive invitations for bids or requests for proposals, or to be awarded a contract by a local public agency for a temporary period; pending the completion of an investigation and any legal proceedings that may ensue.

SECTION 91. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Public employment is a public trust.

(2) It is the policy and purpose of Sections 70 through 94 of this code to promote and balance the object of protecting government integrity and of facilitating the recruitment and retention of personnel needed by local public agencies by prescribing essential restrictions against conflict of interest without creating unnecessary barriers to public service and by facilitating development of fair and competitive access to local public agency purchasing by responsible contractors.

(3) Employes must discharge their duties and responsibilities fairly and impartially. They should also maintain a standard of conduct that will inspire public confidence in the integrity of the government of all local public agencies.

SECTION 92. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) It shall be a breach of ethical standards for any employe to participate directly or indirectly in any proceeding or application; request for ruling or other determination; claim or controversy; or other particular matter pertaining to any contract, or subcontract, and any solicitation or proposal therefor, in which to his knowledge:

(a) He, or any member of his immediate family has a financial interest therein; or

(b) A business or organization in which he or any member of his immediate family has a financial interest as an officer, director, trustee, partner, or employe, is a party; or

(c) Any other person, business, or organization with whom he or any member of his immediate family is negotiating or has an arrangement concerning prospective employment is a party. Direct or indirect participation shall include but not be limited to involvement through decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(2) It shall be breach of ethical standards for any person to offer, give, or agree to give any employe or former employe, or for any employe or former employe to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment, in connection with any decision, approval, disapproval, recommendation, preparation of any part of a purchase request, influencing the content of any specification or

purchase standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling or other determination, claim or controversy, or other particular matter, pertaining to any contract or subcontract and any solicitation or proposal therefor.

(3) It is a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(4) The prohibition against conflicts of interest and gratuities and kickbacks shall be conspicuously set forth in every local public agency contract and solicitation therefor.

(5) It shall be a breach of ethical standards for any public employe or former employe knowingly to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

SECTION 93. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) The value of anything transferred or received in breach of the ethical standards of Sections 70 through 94 of this code or regulations or rules issued thereunder by an employe or a nonemploye may be recovered from both the employe and the nonemploye.

(2) Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the local public agency and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery against other offending parties.

SECTION 94. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Criminal penalties for violations of the laws which are in existence on January 1, 1980 shall not be impaired.

(2) Any person who knowingly violates or solicits the violation of any of the provisions of Section 95 of this code, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be punished by a fine of not more than five thousand dollars ($5,000) or by imprisonment for not more than one (1) year, or both. In addition, if the convicted person be a nonelected employe, appropriate proceedings for his dismissal shall be commenced by the local public agency.

Section 95. KRS 18.140 is amended to read as follows:

(1) The classified service to which KRS 18.110 to 18.360 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of state planning, and the office of the secretary of the governor's cabinet;

(e) Heads of departments, including those appointed by boards and commissions;

(f) One (1) principal assistant or deputy for each head of a department;

(g) One (1) additional principal assistant or deputy, or other major assistants as may be necessary for making and carrying out policy, for each head of a department in those instances in which the nature of the functions, size or complexity of the agency involved are such that the personnel board may approve such an addition or additions on petition of the department head approved by the commissioner of personnel;

(h) Division directors subject to the provisions of KRS 18.150;

(i) Physicians employed as such in institutions for treatment of patients with mental illness or tuberculosis;

(j) One (1) private secretary for each head of a department and for each principal assistant or deputy not included in the classified service;

(k) The judicial department, referees, receivers, jurors, and notaries public;

(l) Officers and members of the staffs of state universities and colleges and student employes of such institutions, provided that said institutions shall establish and implement a personnel system embodying the principles in KRS 18.110 to 18.360 applicable to faculty members and staff; and officers, teachers, and employes of local boards of education;

(m) Patients or inmates employed in state institutions;

(n) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor;

(o) Seasonal, temporary, and emergency employes;

(p) Federally funded time-limited employes;

(q) Officers and members of the state militia;

(r) Peace officers in the department of justice, Provided that said department shall maintain a personnel system embodying the principles herein applicable to peace officers;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner;

(t) Superintendents of state penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and commonwealth's attorneys and their respective appointees.

(w) The chief purchasing officer provided for in this Act.

(2) Nothing in KRS 18.110 to 18.360 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and KRS 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Classified employes with status promoted to positions exempted from classified service may, upon termination of their employment in the exempted service, revert to their classified status, but not necessarily to a particular position in the classified service.

(5) Nothing herein shall be construed as precluding appointing officers from filling nonclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 96. KRS 18.220 is amended to read as follows:

(1) The commissioner of personnel shall prepare and submit proposed rules to the governor for employes in non-merit system positions enumerated in paragraphs (f), (g), (h), (i), (j), (o), (t), and (u) of KRS 18.140(1) *and Section 95(1)(w) of this Act.* Such rules shall become effective after approval by the governor and promulgation in accordance with KRS Chapters 12 and 13. The rules shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all aforementioned positions in the unclassified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification plan has been approved by the governor, the commissioner shall allocate the positions of every employe in the unclassified service to one (1) of the classes of the plan. Any employe affected by the allocation of a position to a class shall, after filing with the commissioner of personnel a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon by the commissioner;

(b) For a pay plan for all aforementioned employes in the unclassified service, after consultation with appointing authorities and the commissioner of the executive department for finance and administration, and taking into account such factors as (a) the relative levels of duties and responsibilities of various classes of positions; (b) rates paid for comparable positions elsewhere; and (c) the state's financial resources. Such pay plan shall become effective only after it has been approved by the governor after submission to him by the commissioner of personnel through the commissioner of the executive department for finance and administration. Amendments to the pay plan may be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the position in which he is employed;

(c) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges;

(d) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided in KRS 18.170(2);

(e) For the development and operation of programs to improve the work effectiveness and morale of employes in the unclassified service, including training, safety, health, welfare, counseling, recreation, and employe relations;

(f) For such other rules and administrative regulations, not inconsistent with KRS 18.110 to 18.360, as may be proper and necessary for its enforcement.

(2) Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (d), and (p) of KRS 18.140.

Section 97. KRS 45.360 is amended to read as follows:

(1) [The executive department for finance and administration shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not

limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the executive department for finance and administration food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, or artistic services (Contracts exempted by this provision shall be referred to the department of personnel for review and approval);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the executive department for finance and administration, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the executive department for finance and administration from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between general service administration and the vendor affected.

(3) The executive department for finance and administration shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall prescribe rules and regulations to govern purchasing by or for all such agencies, subject to the approval of the commissioner of the executive department for finance and administration, and shall publish a manual of procedures to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the department or made under general regulations which the executive department for finance and administration may prescribe.

(4)] The executive department for finance and administration shall adopt regulations to require agencies to take and maintain inventories of plant and equipment. The executive department for finance and administration shall conduct periodic physical audits of inventories.

(2) [(5)] The executive department for finance and administration shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the executive department for finance and administration prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(3) [(6)] The executive department for finance and administration shall have power, with the approval of the commissioner of the executive department for finance and administration, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

[(7) The executive department for finance and administration shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the commissioner of the executive department for finance and administration. The determination of the commissioner of the executive department for finance and administration shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the commissioner of the executive department for finance and administration and approved by the governor. Unless the commissioner of the executive department for finance and administration deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department of revenue, or department of highways for such requirements of that department.]

(4) [(8)] Except as provided in KRS chapters 175, 176, 177 and 180 *and subject to the provisions of this Act,* the executive department for finance and administration shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the commissioner of the executive department for finance and administration as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the

department of revenue, bureau of highways (for such requirements of that department), or value set by eminent domain procedure.

(5) [(9)] Real property or any interest therein may, *subject to the provisions of this Act,* be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the executive department for finance and administration, based upon a written application by the head of the agency requesting the purchase, and approved by the commissioner of the executive department for finance and administration and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property of the executive department for finance and administration in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS chapter 56.

(6) [(10)] The executive department for finance and administration shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the commissioner of the executive department for finance and administration, the governor, and the general assembly. The executive department for finance and administration shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(7) [(11)] For capital construction projects, *subject to the provisions of this Act,* the bidding may be on a total design-bid basis; a package system commonly referred to as "turn key"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the commissioner of the executive department for finance and administration offers the lowest real cost to the taxpayer. Bids [when delegated to and are received by construction managers] shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(8) [(12)] The executive department for finance and administration shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

Section 98. KRS 45.420 is amended to read as follows:

(1) *Subject to the provisions of this Act,* any budget unit, when provided for by appropriation or when authorized by the executive department for finance and administration, may establish one or more imprest cash funds for the purpose of making disbursements requiring prompt cash outlay, and to carry out the provisions of *this Act* [KRS 45.360 (1)]. The state treasurer, upon warrants of the executive department for finance and administration based upon a requisition from the head of the budget unit, shall pay to the head of such budget unit the amount necessary to establish such a fund.

(2) A custodian shall be designated by the head of the budget unit and certified by the executive department for finance and administration after appropriate instruction and testing as qualified to administer the fund. The custodian shall, as often as may be necessary to replenish the fund and at least once each month, file with the executive department for finance and administration a schedule of the disbursements from the fund, accompanied by appropriate vouchers and statements of indebtedness therefor approved by the head of the budget unit, and by a certificate as to the condition of the fund. The amount of the total of the approved voucher shall be paid to the custodian of the fund on the warrant of the executive department for finance and administration, and the amount shall be devoted to reimbursement of the fund. Any question relative to the amount to be allowed in any imprest cash fund, the expenditure thereof, the accounting therefor, and the repayment thereof to the state treasurer, shall be determined by the executive department for finance and administration.

(3) The agency head shall be responsible for expenditures authorized from such funds, and the custodian shall be responsible for administration of the fund. Each agency head and custodian shall be separately bonded in the amount by which the total authorization for the fund exceeds the state blanket bond for such officials.

(4) A post audit of each imprest fund shall be conducted as required by KRS 43.050.

(5) Each imprest fund shall lapse with the appropriation on which it is based, but may be reestablished by appropriation for the next ensuing year or when authorized by the executive department for finance and administration.

(6) Where work is done on public projects by the state through the use of its own personnel or facilities in whole or in part, which work is not subject to the provisions of law for competitive bidding, the budget unit having such work performed may, when authorized by the executive department for finance and administration, establish an imprest cash fund for the purpose of defraying the expenses of the proposed project, which fund shall not exceed at any time an amount equal to twenty-five per cent (25%) of the anticipated total cost of the project.

Section 99. KRS 45.430 is amended to read as follows:

The executive department for finance and administration may, for satisfactory reason consistent with *its* [his] responsibility to attempt in every practical way to insure the state's supplying its real needs at the lowest possible cost or to the best advantage of the state, waive any requirements of KRS 45.360 to 45.420 *or this Act* in instances where purchases are made by the Commonwealth of Kentucky or any agency thereof from the federal government or any agency thereof or from any other state government or any agency thereof.

Section 100. KRS 45.990 is amended to read as follows:

(1) Any officer, agent or employe of any budget unit who wilfully fails or refuses to comply with any of the provisions of KRS 45.010 to 45.170, 45.190 to 45.300, 45.320 or 45.330, or who expends any money in violation of any of the provisions of those sections, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) for each offense.

(2) If any person incurs, or orders or votes for the incurrence of, any obligations in violation of any of the provisions of subsection (2) of KRS 45.190, he and his sureties shall be jointly and severally liable therefor.

(3) Any violation of KRS 45.360 shall be punished by a fine of not more than five thousand dollars ($5,000) or by a prison sentence of not more than five (5) years, or by both fine and imprisonment in the discretion of the jury.

[(4) Any person who violates any of the provisions of KRS 45.460 shall be guilty of a felony and shall be punished by a fine of not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or be imprisoned not less than one (1) year nor more than five (5) years, or both such fine and imprisonment. Any firm, corporation, or association which violates any of the provisions of KRS 45.460 shall, upon conviction, be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000).

(5) Any employe of the division of purchases, or any official of the Commonwealth of Kentucky, elective or appointive, who shall take, receive, or offer to take or receive, either directly or indirectly, any rebate, percentage of contract, money, or other things of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, for, or to, or from, any person, partnership, firm or corporation, offering, bidding for, or in open market seeking to make sales to the Commonwealth of Kentucky, shall be deemed guilty of a felony and upon conviction such person or persons shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.

(6) Every person, firm, or corporation offering to make, or pay, or give, any rebate, percentage of contract, money or any other thing of value, as an inducement or intended inducement, in the procurement of business, or the giving of business, to any employe of the division of purchases or to any official of the commonwealth, elective or appointive, in his efforts to bid for, or offer for sale, or to seek in the open market, shall be deemed guilty of a felony and shall be punished by a fine not to exceed five thousand dollars ($5,000) or by imprisonment in the penitentiary for not more than ten (10) years, or both so fined and imprisoned in the discretion of the jury.]

Section 101. KRS 57.091 is amended to read as follows:

All work under the provisions of KRS 57.011 shall be *performed under contract, to be awarded to the lowest responsible bidder* [awarded as provided in KRS chapter 45], Provided, however, That approval by the governor shall be required for each award of contract. One or more contracts may be awarded for each class of printing. The number of contracts required shall be as determined by the department of finance to be in the best interest of the commonwealth. The determination of content for each award and the period thereof shall be made by the commissioner of finance. No contract shall be awarded to a member of the general assembly or to any officer of the commonwealth who is in any way interested in any such contract.

Section 102. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18.160 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system;

(e) Three (3) trustees appointed by the governor of the commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of *this Act* [KRS 45.360];

(e) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS chapters 45 and 56 provided however, that the board is not authorized to construct a building; and

(f) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3)(a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section.

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office.

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975 shall be succeeded by a term expiring on March 31, 1978.

(4)(a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals.

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members.

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes.

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address.

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected.

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot.

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor: however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18 and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Appoint such other employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. All its proceedings and records shall be open for inspection by the public.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two per cent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.505 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852, may appeal the decision of the board to the Franklin circuit court.

Section 103. KRS 68.170 is amended to read as follows:

(1) The purchasing agent shall make all purchases of supplies, goods, wares and merchandise ordered by the fiscal court to be purchased for county purposes. [Where the amount of the purchase exceeds $250, purchases shall be made on competitive bids from the lowest or best bidder, and the purchase shall be approved by the fiscal court.]

(2) Said purchasing agent shall be paid for his services a salary to be fixed by the fiscal court of the county and to be paid in equal monthly instalments out of the county levy.

Section 104. KRS 68.175 is amended to read as follows:

Subject to the provisions of this Act in counties containing a city of the second class the fiscal court may employ some person to make all purchases needed in the operation of the county and needed by the officers thereof, the method and manner of making the purchases to be fixed and determined by the fiscal court at the time of the employment of such person.

Section 105. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18 and KRS 64.640, except that such compensation shall not exceed the maximum set for Commissioners by KRS 64.640(2). The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employees of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four-year college, and shall possess such other qualifications as the board of trustees may require by regulation. The executive secretary shall not have held by appointment or election an elective public office within the five-year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves subject to the approval of the commissioner of personnel.

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS chapter 56 and *this Act* [KRS 45.360], and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employes of the system who may be subjected to civil action arising from the performance of their legally assigned duties in the event such counsel and services are not provided by the attorney general.

Section 106. KRS 162.075 is amended to read as follows:

The provisions of *this Act* [KRS 162.070] shall not apply to purchases made by the boards of education within the Commonwealth of Kentucky from the United States of America, or any agency thereof.

Section 107. The following statutes are repealed effective January 1, 1979: KRS 45.365, Central purchasing for political subdivisions; 45.370, Standards and specifications fixed by regulations; 45.380, Inspection and quality control — Regulations, checks, testing; 45.390, List of bidders — Use — Removal from list — Sealed bids required, when — Time for invitations to bid; and 56.491, Approval required for certain projects — Conditions of approval — Exceptions.

Section 108. The following statute is repealed effective January 1, 1980: KRS 162.070, Contracts for buildings, improvements and materials to be let on competitive bidding.

Section 109. The following sections of this Act shall become effective on January 1, 1979: Sections 1 through 58; Sections 65 through 69; Sections 95 through 102; Section 105; and Section 107.

Section 110. The following sections of this Act shall become effective on January 1, 1980: Sections 59 through 64; Sections 70 through 94; Sections 103, 104, 106 and 108.

HCR 17, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study methods of providing in-service training programs for Kentucky local government officials.

WHEREAS, in creating the County and Municipal Statute Revision Commissions, the General Assembly expressed its support for statute revision as a means of assisting local officials in better understanding and effectively discharging their duties to the citizens of the Commonwealth; and

WHEREAS, the achievement of this goal necessitates supplementing the Commissions' and General Assembly's law revision efforts with opportunities for continuing, in-service training for city and county officials to assist them in obtaining, increasing and updating their knowledge of their powers and duties and methods of administration; and

WHEREAS, while the Department for Local Government, other state agencies, and associations of local officials are attempting to provide educational services through periodic meetings and dissemination of information, Kentucky's provision of in-service training programs for local officials is in its infancy in comparison with other states and is hampered in part by the lack of suitable training facilities; and

WHEREAS, an analysis and evaluation of alternative methods for establishing and coordinating an on-going program of in-service training for Kentucky local officials is needed to determine the optimum method for providing such services;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of methods of providing in-service training programs for newly-chosen and incumbent, elected and appointed, city and county officials. The study shall include:

(1) An analysis of the methods employed by other states to provide such training programs and an evaluation of the suitability of such methods for Kentucky;

(2) A survey of the training resources currently or potentially available within Kentucky, including determination of the facilities needed and available for training, and the cost of acquiring or utilizing suitable facilities; and

(3) An evaluation of alternative organizational locations for an in-service training program, whether within state government or through non-governmental entities.

Section 2. That the Legislative Research Commission shall make the results of the study available to the members of the General Assembly no later than June 1, 1979.

HJR 35, A JOINT RESOLUTION directing the Legislative Research Commission to study the feasibility of constructing a legislative office building and making an appropriation therefor.

WHEREAS, the majority of the members of the General Assembly must conduct the legislative business of the Commonwealth from a desk without adequate work or storage space, privacy or even the convenience of a telephone; and

WHEREAS, there appears to be no adequate or appropriate space which could be made available to the General Assembly without the serious disruption of state government;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is hereby directed to conduct a study of the feasibility of constructing a legislative office building.

Section 2. The study shall include, but not necessarily be limited to, an appropriate site, with first consideration given to the parking lot at the west end of the State Capitol; the amount of office space needed; a suitable design; and the cost of construction.

Section 3. The study shall be completed and made available to the members of the General Assembly and to the Governor not later than June 1, 1979.

Section 4. The sum of one hundred thousand dollars ($100,000) is hereby appropriated to the Legislative Research Commission to carry out the directives of this resolution.

HCR 48, A CONCURRENT RESOLUTION petitioning the United States Congress and President to institute an alliance among all levels of government to create a unified program of income security.

WHEREAS, the social security system is believed by most citizens to be the repayment of funds contributed by the recipient when, in fact, a person paying the maximum into the system since its inception in 1937 would have contributed less than $9,000 by the end of 1977; and

WHEREAS, government social welfare programs, although severely criticized by many, are appropriately recognized as a form of income redistribution; and

WHEREAS, the social security system will rapidly become fiscally unsound without continued increases in payments by the working people of this nation; and

WHEREAS, increased employer contributions are creating serious fiscal problems for governments; and

WHEREAS, a proliferation of retirement programs by all levels of government has created inequities and inequalities which are difficult to solve; and

WHEREAS, all of the aforementioned programs have substantial administrative costs which reduce the actual benefit to the recipient;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky General Assembly requests that President Carter and the United States Congress initiate a program calling for an alliance among all levels of government to create a unified program of income security for all of the nation's citizens which will encourage self-reliance, reduce administrative costs, eliminate inequities and provide security for those unable to provide for themselves.

Section 2. That the Clerk of the House of Representatives be, and is hereby, directed to transmit copies of this resolution to the President of the United States and to the President of the Senate and the Speaker of the House of Representatives of the Congress.

HCR 70, A CONCURRENT RESOLUTION directing the formation of a Special Advisory Committee on Nuclear Waste Disposal.

WHEREAS, the 1976 Kentucky General Assembly directed a study of the effects of nuclear waste disposal in the Commonwealth; and

WHEREAS, the Special Advisory Committee created to conduct the Nuclear Waste Study has made numerous findings and recommendations, many of which will require several years for implementation; and

WHEREAS, the 1976 Special Advisory Committee has completed its term of office and has ceased to exist; and

WHEREAS, the 1978 Kentucky General Assembly is most desirous of continuing to ensure that the problems of nuclear waste disposal are solved in a manner which protects the health and safety of the citizens of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be directed to appoint a Special Advisory Committee on Nuclear Waste Disposal to be composed of no less than ten (10) members. The committee shall include the Representative from the 70th Legislative district and the Senator from the 28th Senatorial district who shall act as chairman and vice-chairman by mutual agreement. In addition, the committee shall include one Representative each from the Departments of Human Resources, Natural Resources and Environmental Protection and Finance and Administration, two (2) members of the University faculty recognized as experts in nuclear science, a Representative of the Kentucky Environmental Quality Commission and two (2) lay members representing the general public.

Section 2. That the Special Advisory Committee shall assume an oversight role on behalf of the Kentucky General Assembly on all matters pertaining to nuclear waste disposal during the 1978-80 Interim. The Committee shall meet no less than three (3) times a year and shall report its findings and recommendations to the Legislative Research Commission and the 1980 General Assembly no later than January 1, 1980.

Section 3. It is estimated that the operation of the committee and the provision of staff services will cost approximately $20,000, such monies to be provided from the regular budget of the Legislative Research Commission.

HR 75, A RESOLUTION requesting that state funds deposited in State National Bank of Frankfort, Kentucky, be more equitably distributed among all banks in Frankfort, Kentucky.

WHEREAS, the state treasurer and the secretary of finance and administration designate banks in the Commonwealth as depositories for state funds pursuant to statutory authority; and

WHEREAS, State National Bank of Frankfort, Kentucky has time deposits of state funds totaling $2,750,000.00 as of January 31, 1978; and

WHEREAS, the time deposits of state funds at State National Bank of Frankfort, Kentucky is more than double the amount of time deposits of state funds at any other bank in the Commonwealth as of January 31, 1978; and

WHEREAS, no state funds were deposited in Frankfort's other bank, the Farmers Bank and Capital Trust Company, as of January 31, 1978;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Governor, State Treasurer, Secretary of the Cabinet, and the Secretary of Finance and Administration are requested to more equitably distribute state funds among all banks in Frankfort, Kentucky, so that future deposits of state funds within the City of Frankfort will be in amounts proportional to the total deposits of nonstate funds in each of the city's banks.

Section 2. That the clerk be directed to transmit a copy of this resolution to the Governor of the Commonwealth, State Treasurer, Secretary of the Cabinet, and Secretary of Finance and Administration.

The Committee Amendment to **HR 75** is as follows:

Amend printed **HR 75**, page 2, after line 5, insert the following:

"Section 2. That the Farmers Bank and Capital Trust Company be requested to share its demand deposits equally with the State National Bank.

Section 3. That the Secretary of Finance and Administration and the State Treasurer report within three months to the appropriate Interim Joint Committee of the Legislative Research Commission concerning the disposition of time and demand deposits as such relate to such aforementioned banks, and the reasons for such disposition.";

and on page 2, line 6, change the figure "2" to the figure "4".

SJR 17, A JOINT RESOLUTION authorizing and directing the Department of Parks to provide special benefits for disabled veterans at state resort parks.

WHEREAS, Kentucky has one of the finest, most modern state park systems in the nation; and

WHEREAS, senior citizens can enjoy special camping privileges at state parks throughout the year and special recreational programs at selected times during the year; and

WHEREAS, Kentucky has more than 58,000 disabled veterans who also should have an opportunity to enjoy the many natural and manmade attractions at the state resort parks;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Parks is authorized and directed to afford special privileges to disabled veterans in Kentucky state parks, including access to camping facilities at no cost between Labor Day and Memorial Day and at a reduced price the rest of the year, and other privileges similar and equivalent to those afforded senior citizens.

SB 78, AN ACT relating to state police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

Any state police officer (as defined in KRS 16.010) who becomes disabled as a result of an injury or disease arising out of and in the course of employment with the bureau shall be retained on the regular payroll of the bureau of state police subject to the following:

(1) Compensation paid to the officer by the bureau shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the bureau, and shall include annual increments, salary adjustments, and other benefits of employment, provided, however, such compensation paid to the officer by the bureau shall be reduced by the amount of payments received by the officer from workmen's compensation insurance, social security benefits and other federal or state financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.505 to 16.652.

(2) Such officer shall be assigned by the commissioner of the bureau of state police to a position in the bureau for which he is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this Act. If the commissioner determines that the officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this Act without the performance of limited duties.

(3) Payments made pursuant to this Act shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability benefits provided for members of the state police retirement system, which disability benefits shall be elective for the disabled officer, any other law to the contrary notwithstanding.

SB 178, AN ACT relating to veterans' affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or executive order.

I. Departments headed by elected officers:

1. The governor.
2. Lieutenant governor.
3. Department of state.

(a) Board of elections.
4. Department of law.
(a) Consumers advisory council.
5. Department of the treasury.
6. Department of agriculture.
(a) State board of agriculture.
(b) Milk marketing and antimonopoly commission.
7. Department of education.
(a) State board of education.
(b) State textbook commission.
8. Auditor of public accounts.
9. Railroad commission.
II. Cabinet departments headed by appointed officers:
1. Executive department for finance and administration.
(a) State property and buildings commission.
(b) Turnpike authority of Kentucky.
(c) Capitol plaza authority.
(d) Kentucky housing corporation.
(e) Kentucky pollution abatement authority.
(f) Kentucky health and geriatric authority.
(g) Kentucky savings bond authority.
(h) County debt commission.
(i) Spindletop foundation.
(j) Kentucky public employes deferred compensation system.
(k) Board of claims.
(l) Crime victims compensation board.
2. Department of transportation.
(a) Railroad commission.
(b) Motor vehicle dealers board.
3. Department for natural resources and environmental protection.
(a) Environmental quality commission.
(b) Soil and water conservation commission.
(c) Ohio river sanitation commission.
4. Department of justice.
(a) Kentucky crime commission.
(b) Parole board.
(c) Kentucky law enforcement council.
(d) Commission on corrections and community service.
(e) State police personnel board.
5. Department for human resources.
(a) Citizens commission for human resources.
(b) Advisory council for medical assistance.
(c) Unemployment insurance commission.
(d) Certificate of need and licensure board.
(e) Generic formulary council.
Cabinet for development.
Department of agriculture (headed by elected officer).
6. Department of commerce.
(a) Kentucky industrial development finance authority.
(b) Kentucky science and technology commission.
7. Department of fish and wildlife resources.
(a) Fish and wildlife resources commission.
8. Department of parks.
(a) Breaks interstate park commission.
9. Department of energy.
(a) Energy resources advisory commission.
10. Kentucky historical events celebration commission.
11. State fair board.
12. Kentucky geological survey.
13. Economic development commission.

14. The governor's council on agriculture.
15. The farmers advocate's office.
Cabinet for education and the arts.
16. Kentucky arts commission.
Department of education (headed by elected officer).
17. Kentucky authority for educational television.
18. Kentucky heritage commission.
19. Kentucky historical society.
20. Department of library and archives.
(a) State archives and records commission.
(b) State board for certification of librarians.
21. Advisory council for vocational education and manpower development and training.
Cabinet for public protection and regulation.
22. Department for alcoholic beverage control.
(a) Alcoholic beverage control board.
23. Department of banking and securities.
24. Department of insurance.
(a) Custodian of insurance securities.
25. Department of labor.
(a) Workmen's compensation board.
(b) Occupational safety and health standards board.
(c) State labor relations boards.
26. Department of mines and minerals.
27. Kentucky registry of election finance.
28. Public Service commission.
29. Kentucky quarterhorse and appaloosa commission.
30. Kentucky state racing commission.
31. Kentucky harness racing commission.
32. Kentucky board of tax appeals.
III. Other departments headed by appointed officers:
1. Department of military affairs.
2. Department of personnel.
(a) Personnel board.
3. Department of public information.
4. Department of revenue.
5. Human rights commission.
6. Council on public higher education.
7. Teachers' retirement system.
8. Kentucky employees' retirement system.
9. Commission on women.
10. Kentucky tobacco research board.
11. Kentucky center for energy research.
12. Kentucky center for veterans' affairs.

Section 2. KRS 12.023 is amended to read as follows:

(1) The following administrative bodies shall be attached to the office of the secretary of the cabinet and shall report directly to the governor:
(a) Kentucky council of economic advisers.
(b) Governor's judicial advisory council.
(c) Council on public higher education (The state universities and colleges shall report through the council on public higher education).
(d) Kentucky tobacco research board.

(2) The heads of the following departments and administrative bodies shall report to the secretary of the cabinet:
(a) Department of military affairs.
(b) Department of personnel.
(c) Department of public information.
(d) Department of revenue.
(e) Human rights commission.
(f) Teachers' retirement system.

(g) Kentucky employees' retirement system.
(h) Commission on women.
(i) Office for state planning.
(j) Kentucky center for veterans' affairs.

Section 3. KRS 36.310 is amended to read as follows:

(1) There is created *the Kentucky center for veterans' affairs as an independent agency of the state government. The center shall report to the secretary of the cabinet. The center shall be headed by* a board to be known as the [Advisory] board for veterans affairs. The board shall be composed of five (5) members appointed by the governor. Two (2) of said members shall serve for a period of three (3) years, two (2) for a period of two (2) years and one (1) for a period of one (1) year and all shall serve until their successors are appointed, and with all appointments after the original appointments being for three (3) years. It is further provided that said appointments shall be veterans with service during time of war or hostilities wherein American troops were engaged in conflict with an armed enemy. Insofar as practicable, the governor, in making appointments to the board, shall give due consideration to a fair representation on the board of nationally recognized veterans organizations active in Kentucky, based on size of the membership of such organizations in this state. The state headquarters of each said major veterans organization may, from time to time, submit a list of not more than three (3) names to the governor from which list original appointments may be made and vacancies filled in his discretion.

(2) Members of the board shall meet at least once every two (2) months at the headquarters of the *center* [advisory board] for veterans affairs, and at such other times as the chairman may designate, and the members shall decide as to the specific meeting date.

(3) Members of the board shall be paid for the actual expenses incurred upon attendance of meetings of the board subject to executive department for finance and administration regulations.

(4) At its first meeting the members of the board shall select a chairman, vice-chairman and secretary from among the members.

[(5) The board shall advise the department for human resources on the administration of its veterans services programs.]

SECTION 4. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

The board for veterans' affairs may:

(1) Appoint an executive director to serve as chief executive and administrative officer of the center for veterans' affairs;

(2) Employ, or authorize the executive director to employ, such additional personnel as may be necessary to assist in the administration of the center; and

(3) Adopt regulations necessary for the administration of KRS 36.310 to 36.330, subject to KRS Chapter 13.

Section 5. KRS 36.330 is amended to read as follows:

(1) The *center for veterans' affairs* [department for human resources] shall collect all necessary data and information regarding facilities and services available to veterans, their families, and dependents, and shall cooperate with all information or service agencies throughout the state in informing such persons regarding the existence or availability of all educational, training and retraining facilities; health, medical, rehabilitation and housing services and facilities; employment and re-employment services; provisions of federal, state and local laws affording rights, privileges and benefits to said persons, their families and dependents, and all other matters of similar related or appropriate nature. It shall likewise be the duty of said *center* [department for human resources] to assist veterans and their families and dependents in the presentation, proof and establishment of all claims, privileges, rights and other benefits which they may have under federal, state or local laws, and to cooperate with all national, state and local government and private agencies securing services or any benefits to veterans, their families and dependents.

(2) The *director of the center for veterans' affairs* [department for human resources] shall prepare and submit to the governor, *the secretary of the cabinet,* and each member of the board an annual report with reference to claims presented on behalf of veterans and to otherwise report the activities and accomplishments of the *center* [department].

(3) The *center for veterans' affairs may* [department for human resources shall be authorized to] apply for and accept gifts, grants, and other contributions from the federal government, or from any other governmental unit which funds shall be administered by the *center* [department for human resources] through use of trust and agency accounts.

(4) Veterans as used in KRS 36.310 to 36.330 include any individual who served on active duty during peace or war in the armed forces of the United States, and who has received an honorable discharge from such service.

(5) The *center* [department] shall maintain full, adequate and complete copies of all records pertaining to claims of veterans who file said claims for benefits through the *center* [department].

Section 6. KRS 194.110 is amended to read as follows:

(1) The Kentucky drug formulary council and its associated bodies are hereby attached to the bureau for health services for administrative and support purposes. The Kentucky drug formulary council shall advise the council for health services, the secretary for human resources, and the commissioner for health services on the administration and operations of the generic drug formulary program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky drug formulary council shall continue and remain in its present form except that it shall not have the authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative process of the department. This authority and responsibility shall reside exclusively with the secretary for human resources and such employees of the department designated by the secretary to hold these powers.

(2) The Kentucky certificate of need and licensure board and its associated bodies are hereby attached to the bureau for health services for administrative and support purposes. The Kentucky certificate of need and licensure board shall advise the council for health services, the secretary for human resources, and the commissioner for health services on the administration and operations of the certificate of need and licensure program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky certificate of need and licensure board shall continue and remain in its present form, except that it shall not have authority to expend funds, hire employees, issue grants, or otherwise engage in the normal administrative processes of the department. This authority and responsibility shall reside exclusively with the secretary for human resources and such employees of the department designated by the secretary to hold these powers.

(3) The advisory council for medical assistance and its associated bodies are hereby attached to the bureau for social insurance for administrative and support purposes. The advisory council for medical assistance shall advise the council for social insurance, the secretary for human resources and the commissioner for social insurance on the administration and operations of the medical assistance program.

(4) The comprehensive health planning council and its associated bodies are hereby attached to the bureau for health services for administrative and support purposes. The comprehensive health planning council shall advise the council for health services, the Kentucky certificate of need and licensure board, the secretary for human resources, and the commissioner for health services on the total health service facility, and resource needs of the Commonwealth and the allocation of resources to address those needs.

[(5) The board of the bureau for veterans affairs and its associated bodies are hereby attached to the bureau for social services for administrative and support purposes. The board of the bureau for veterans affairs shall advise the council for social services, the secretary for human resources, the commissioner for social services, and the executive director of the center for veterans services on the administration of the veterans services program operated by the department for human resources. The composition, structure, authority, responsibilities, activities, programs, and resources of the board of the bureau for veterans affairs shall continue and remain in its present form except as limited by executive order 74-47. The board of the bureau for veterans affairs is hereby renamed the advisory board for veterans affairs.]

Section 7. KRS 194.180 is amended to read as follows:

All rules, regulations, acts, determinations, and decisions of or by the corporate bodies or instrumentalities of the Commonwealth, advisory committees, inter-state compacts, or other statutory bodies, transferred in whole or in part to the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, the council for social services, the advisory council for medical assistance, *and* the comprehensive health planning council [, and the advisory board for veterans affairs,] shall remain in effect as rules, regulations, acts, determinations, and decisions of the department unless duly modified or repealed by the secretary.

Section 8. KRS 194.190 is amended to read as follows:

The citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, the council for social services, the advisory council for medical assistance, the comprehensive health planning council, [the advisory board for veterans affairs,] the Kentucky drug formulary council, and the Kentucky certificate of need and licensure board shall be empowered to accept gifts and grants, but all such monies shall be administered by the department, which shall administer these funds through appropriate trust and agency accounts.

Section 14. KRS 194.250 is amended to read as follows:

The members of the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, *and* the council for social services [and the advisory board for veterans affairs] shall receive no compensation for their services, but shall be allowed the necessary and actual expenses incurred through the performance of their duties as members of these citizens' councils. No member of a citizens' council shall be held to be a public officer by reason of his membership on a council.

Section 10. KRS 194.210 is amended to read as follows:

Whenever the kidney disease advisory council, the family planning committee, the tuberculosis commission, the Kentucky manpower commission, the Kentucky advisory committee on day care, the Kentucky children's advisory council, the state advisory committee for public assistance, the Kentucky commission on employment of the handicapped, the advisory committee to the Kentucky commission on employment of the handicapped, the advisory council on mental retardation, the developmental disabilities services act advisory council, the Kentucky commission on alcoholism and drug problems, the commission on aging, the advisory committee on aging, the commission on handicapped children, the commission on children and youth, the state board of health, the radiation operators' advisory committee, the advisory council for medical assistance, the comprehensive health planning council, [the board of the bureau for veterans affairs,] the Kentucky drug formulary council, and the Kentucky certificate of need and licensure board, as they relate to the functions transferred in whole or in part by 1974 Acts ch. 74, or members thereof are referred to or designated in any law, regulation, contract, or order pertaining to the functions, powers, obligations, and duties vested in the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, the council for social services, the advisory council for medical assistance, the comprehensive health planning commission, [the advisory board for veterans affairs,] the Kentucky drug formulary council, and the Kentucky certificate of need and licensure board, in accordance with 1974 Acts ch. 74, such references or designations shall be deemed to refer to the citizens' commission for human resources, the institute for aging, the institute for children, the council for health services, the council for social insurance, the council for manpower services, the council for social services, the advisory council on medical assistance, the comprehensive health planning council, [the advisory board for veterans affairs,] the Kentucky drug formulary council, and the Kentucky certificate of need and licensure board, or the department for human resources, or the secretary for human resources, as may be appropriate.

Section 11. KRS 194.220 is amended to read as follows:

Except as otherwise provided in 1974 Acts ch. 74, all authorities, functions, activities, programs, powers, and duties vested in the department of child welfare, the department of economic security, the department of health, the department of mental health, the commission on aging, the commission on children and youth, the commission for handicapped children, the office of economic opportunity, [the bureau of veterans affairs,] the division of disability determination of the department of education, and the employment agency licensure program of the department of labor are hereby transferred to the department and shall be vested in its organizational structure as directed by the secretary.

Section 12. KRS 194.230 is amended to read as follows:

Except as otherwise provided in 1974 Acts ch. 74, all rules, regulations, contracts, acts, agreements, determinations and decisions of the department of child welfare, the department of economic security, the department of health, the department of mental health, the commission on aging, the commission on children and youth, the commission for handicapped children, the office of economic opportunity, [the bureau of veterans affairs,] the division of disability determination of the department of education, and the employment agency licensure program of the department of labor shall remain in effect within the department until duly modified or repealed by the secretary.

Section 13. KRS 194.240 is amended to read as follows:

All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment, wards, any and all resources or other tangible property and any business or other matter undertaken or vested in the department of child welfare, the department of economic security, the department of health, the department of mental health, the commission on aging, the commission on children and youth, the commission for handicapped children, the office of economic opportunity, [the bureau of veterans affairs,] the division of disability determination of the department of education, and the employment agency licensure program of the department of labor are hereby transferred to and vested in the department.

Section 9. KRS 194.200 is amended to read as follows:

All reports, documents, surveys, books, records, files, papers or other writing in the possession of the department of child welfare, the department of economic security, the department of health, the department of mental health, the commission on aging, the commission on children and youth, the commission for handicapped children, the office of economic opportunity, [the bureau of veterans affairs,] the division of disability determination of the department of education, and the employment agency licensure program of the department of labor and in the possession of all instrumentalities within or attached thereto shall remain in the custody of the department. All confidential records, files or information maintained in accordance with state or federal law or regulations or rules of court shall be retained in accordance with present law, regulations or rules of court until modified or repealed or until the secretary establishes appropriate regulations to protect these records, files and information.

Section 15. KRS 194.260 is amended to read as follows:

Any business, litigation, or other matters undertaken or commenced by or against the kidney disease advisory council, the family planning committee, the tuberculosis commission, the Kentucky manpower commission, the Kentucky advisory committee on day care, the Kentucky children's advisory council, the state advisory committee for public assistance, the Kentucky commission on employment of the handicapped, the advisory committee to the Kentucky commission on employment of the handicapped, the advisory council on mental retardation, the developmental disabilities act advisory council, the Kentucky commission on alcoholism and drug problems, the commission on aging, the advisory committee on aging, the commission on handicapped children, the commission on children and youth, the state board of health, the radiation operators' advisory committee, the advisory council for medical assistance, the comprehensive health planning council, [the board of the bureau for veterans affairs,] the Kentucky drug formulary council, and the Kentucky certificate of need and licensure board and still pending on June 21, 1974, shall be completed and conducted by the department.

Section 16. KRS 194.270 is amended to read as follows:

All corporate bodies or instrumentalities of the Commonwealth, advisory committees, commissions, councils, interstate compacts, or other statutory or executive order bodies attached to the functions in whole or in part of the department of child welfare, the department of economic security, the department of health, the department of mental health, the commission on aging, the commission on children and youth, the commission for handicapped children, the office of economic opportunity, [the bureau of veterans affairs,] the division of disability determination of the department of education, and the employment agency licensure program of the department of labor shall be attached to the department.

SECTION 17. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

All veterans' affairs functions transferred and assigned to the department for human resources by 1974 Acts Chapter 74, by subsequent act of the general assembly, and by any executive order are transferred and reassigned to the board and center for veterans' affairs established by KRS 36.310 as amended by this Act. The advisory board for veterans' affairs and any administrative unit of the department for human resources engaged solely in the performance of the functions transferred by this Act are abolished. In order to effect the transfer and reassignment of veterans' affairs functions:

(1) All rules, regulations, contracts, acts, agreements, determinations and decisions of the department for human resources and advisory board for veterans' affairs, relating to the functions transferred and reassigned by this Act to the board and center for veterans' affairs, shall remain in effect as rules, regulations, contracts, acts, agreements, determinations and decisions of the board and center for veterans' affairs until duly modified or repealed by the board, or by the center under authority delegated by the board.

(2) Whenever the advisory board for veterans' affairs or the department for human resources, or officers or units thereof, as they relate to the veterans' affairs functions transferred by this Act, are referred to or designated in any law, regulation, contract, agreement or order, such references or designations shall be deemed to refer to the board or center for veterans' affairs, as may be appropriate.

(3) Any business, litigation or other matters, relating to the veterans' affairs functions transferred by this Act, undertaken or commenced by or against the advisory board for veterans' affairs or the department for human resources and still pending on July 1, 1978 shall be completed and conducted by the board and center for veterans' affairs.

(4) All funds, credits, assets, appropriations, outstanding obligations, personnel, equipment, any and all resources and other tangible property, and any other matter, relating to the veterans' affairs functions transferred by this Act, undertaken or vested in the advisory board for veterans' affairs or the department for human resources, including any funds appropriated for the performance of veterans' affairs functions during the 1978-1980 fiscal years, are hereby transferred to the board and center for veterans' affairs.

(5) All reports, documents, surveys, books, records, files, papers and other writings, relating to the veterans' affairs functions transferred by this Act, in the possession of the advisory board for veterans' affairs

or the department for human resources shall be transferred to the custody of the board and center for veterans' affairs.

SECTION 18. This Act shall become effective on July 1, 1978.

The Committee on Judiciary-Statutes reported **HB 419,** with Committee Substitute attached thereto, and **HB 499,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the third time and ordered placed in the Calendar.

HB 419, AN ACT relating to landlord-tenant relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 383.210 is amended to read as follows:

(1) The district court shall have exclusive jurisdiction over forcible entry and detainer actions, except in the case of a counterclaim that exceeds the jurisdiction amount of district court requiring transfer to circuit court; provided that, no action shall proceed on the filing of a complaint by a landlord until the landlord has submitted proof that he has properly terminated the tenancy by written notice when required by the uniform residential landlord and tenant act or other provision of this chapter.

(2) Upon complaint by a person aggrieved by a forcible entry or detainer to the district court of the county in which the land or tenement, or a principal part thereof, lies, a warrant shall issue to the sheriff or any constable, in substance as follows: "The Commonwealth of Kentucky to the sheriff (or any constable) of .... county: Whereas, A B hath made complaint that C D and E F did, on the .... day of ...., forcibly enter into (or forcibly detain from the said A B) one house and field on the waters of ...., in the county aforesaid (or other general description of the lands or tenements), which were in the peaceable possession of A B (or which the said C D and E F, tenants of the said A B, now hold against him): You are, therefore, commanded to summon a good and lawful jury of your county to meet on the premises, or at a place convenient thereto, on the .... day of ...., to inquire into the forcible entry (or forcible detainer) aforesaid; and give to the said C D and E F at least three days' notice of the time and place of the meeting of the jury; and have then there this writ. Witness, etc."

(3) When applicable to a complaint by a landlord the court shall also issue a notice to the tenant, in substance as follows: "To the tenant: Your landlord has filed an eviction action against you in this court. The reasons for this action are .... A trial will be held on....at....to determine whether you will be evicted. If you have defenses against your landlord or other reasons why he should not evict you, you must appear in court to explain them at this time. Your attorney may represent you at the trial."

(4) [(2)] In the trial of writs of forcible entry, forcible detainer or forcible entry and detainer, if neither party, in person or by agent or attorney, demand a jury, the trial thereof shall be by the court. No such writ shall hereafter direct the summoning of a jury, and the sheriff or other officer to whose hands such writ may come to do execution thereof shall not summon a jury in such proceeding, unless he be by either party notified in writing that a jury is demanded. At the calling of the cause for trial either party may demand a jury.

SECTION 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

A month-to-month tenancy or a tenancy at will or by sufferance may be terminated by the landlord giving thirty (30) days written notice to the tenant or as otherwise permitted by the uniform residential landlord and tenant act where applicable. A landlord may not proceed with an action of forcible entry or detainer as provided in KRS 383.210 until he has complied with this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

(1) The governing body of any city or county may by ordinance adopt the provisions of subsections (2) and (3) of this section to govern the termination of residential tenancies in their respective jurisdictions.

(2) An ordinance adopted pursuant to subsection (1) above shall provide that no tenancy of residential premises may be terminated by the landlord unless:

(a) The tenant has failed to pay the rent to which the owner is entitled; or

(b) The tenant has continued to be, after fourteen (14) days' written notice to cease, so disorderly as to destroy the peace and quiet of the occupants or other tenants living in said house or neighborhood; or

(c) The tenant has wilfully or by reason of gross negligence caused or allowed destruction, damage or injury to the premises and has failed to remedy or repair said damage within a reasonable time after receiving written notice from the owner; or

(d) The tenant has violated a substantial obligation or covenant of his tenancy or lease other than the obligation to surrender on proper notice, and has failed to cure such violation within a reasonable time after receiving written notice thereof from the owner; or

(e) The tenant has, after reasonable written notice, refused the owner access to the unit at reasonable time for the purpose of making necessary repairs or improvements required by law; or

(f) The person occupying the premises at the end of a lease term is a sub-tenant not approved by the owner; or

(g) The owner has requested in good faith, and the tenant has refused or failed to pay a reasonable increase in rent, provided that such increase is requested by means of a written notice received by the tenant at least thirty (30) days prior to the effective date of the requested increase, such increase is not requested for the purpose of circumventing this act, such increase is not retaliatory as defined in KRS 383.705, where applicable, or, such increase is not contrary to any other oral or written agreement between the owner and tenant or any oral or written representation made by the owner or his agent to the tenant; or

(h) The landlord or owner seeks to permanently board up or demolish the premises because he has been cited by local housing inspectors for substantial violations affecting the health and safety of tenants and it is economically unfeasible for the owner to eliminate the violations; or

(i) The landlord or owner seeks to comply with housing inspectors who have cited him for substantial violations affecting the health and safety of tenants and it is unfeasible to comply without removing the tenant; or

(j) The landlord or owner is a governmental agency which seeks to permanently retire the premises from the rental market pursuant to a redevelopment or land clearance program in a blighted area; or

(k) The owner of a building seeks to personally occupy a unit, or has contracted to sell the residential unit to a buyer who wishes to personally occupy it and the contract for sale calls for the unit to be vacant at the time of closing; or

(l) The landlord or owner proposes, at the term of a lease, reasonable changes of substance in the terms and conditions of the lease, including specifically any change in the term thereof, which the tenant, after reasonable written notice, refuses to accept.

(3) The ordinance shall provide for penalties which shall include but not be limited to the following provisions:

(a) Any owner who, within ninety (90) days after any termination of tenancy pursuant to subsection (2)(g) of this section, rents the premises at less than the highest rent demanded of the previous tenant shall be liable to the previous tenant for damages equal to three (3) months rent.

(b) Any owner who, within ninety (90) days after termination of tenancy pursuant to subsection (2)(h) or (j) of this section, rents the premises shall be liable to the previous tenant for damages equal to three (3) months rent.

(c) Any owner who rents the premises after having removed a tenant pursuant to subsection (2)(i) of this section without having eliminated the violations for which he has been cited shall be liable to the previous tenant for damages equal to three (3) months rent.

(4) The penalty provisions in subsection (3) above may be enforced by an action in district court brought by the tenant.

(5) In cities or counties which have adopted by ordinance the provisions of subsections (2) and (3) of this section, a rental agreement may not provide that a tenant agrees to waive or forego the benefits of the ordinance. Any such provision included in a rental agreement is unenforceable.

(6) Any ordinance adopted under this section shall not be construed to limit, impair or otherwise affect any provisions on the termination of any tenancy under the uniform residential landlord and tenant act and shall be interpreted consistently with the uniform act in any jurisdiction where both the uniform act and an ordinance are in force.

The Committee Substitute to **HB 419** is as follows:

HB 419, AN ACT relating to landlord tenant relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 383.505 TO 383.715 IS CREATED TO READ AS FOLLOWS:

(1) No forcible entry or detainer action under KRS 383.210 to 383.285 may proceed, in any jurisdiction where the provisions of KRS 383.505 to 383.715 are applicable, upon the filing of a complaint by a landlord until the landlord has submitted proof that he has properly terminated the tenancy by written notice when required under the provisions of this chapter.

(2) In addition to the language in KRS 383.210, the warrant issued upon a complaint by a landlord shall also contain notice to the tenant in substance as follows: "To the tenant: Your landlord has filed an eviction action against you in this court. The reasons for this action are .... A trial will be held on .... at .... to determine

whether you will be evicted. If you have defenses against your landlord or other reasons why he should not evict you, you must appear in court to explain them at this time. Your attorney may represent you at the trial."

SECTION 2. A NEW SECTION OF KRS 383.010 to 383.285 IS CREATED TO READ AS FOLLOWS:

A month-to-month tenancy may be terminated by the landlord giving thirty (30) days written notice to the tenant or as otherwise permitted by the uniform residential landlord and tenant act where applicable. A landlord may not proceed with an action of forcible entry or detainer as provided in KRS 383.210 until he has complied with this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

If the officer directed to serve notice on the defendant in forcible entry or detainer proceedings cannot find the defendant on the premises mentioned in the writ, he may explain and leave a copy of the notice with any member of the defendant's family thereon over sixteen (16) years of age, and if no such person is found, he may serve the notice by posting a copy thereof in a conspicuous place on the premises. In all cases where service is made by leaving a copy of the notice with a member of the defendant's family or by posting a copy of the notice on the premises, the sheriff shall mail a copy of the notice by first class mail to the defendant at the premises in question. Service shall not be deemed complete until five (5) days after the date on which notice was mailed.

HB 499, AN ACT relating to domestic abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 408 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the "Domestic Abuse Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

The purpose of this chapter is:

(1) To allow family and household members who are victims of domestic abuse to obtain effective, short-term protection against further abuse such that the lives of the non-abusing family or household members will be as secure and as little disrupted as possible.

(2) To expand the ability of law-enforcement officers to effectively respond to situations of domestic abuse so as to prevent further incidents of abuse and to assist the victims of such abuse.

(3) To provide for the collection of data concerning domestic abuse in an effort to reduce the reliance on physical violence as a means of resolving domestic disputes through a more comprehensive analysis of its incidence and causes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Family and household members" means spouses, persons co-habitating, individuals who were formerly spouses or co-habitants, parents or children, or other persons related by consanguinity or affinity.

(2) "Abuse" means the occurrence of one (1) or more of the following acts between family or household members:

(a) Causing physical injury to another with or without a deadly or dangerous weapon.

(b) Placing another person in reasonable apprehension of imminent physical injury.

(c) Engaging in conduct which creates a substantial danger of physical injury to another person.

(d) Threatening to commit any crime likely to result in death or serious physical injury to another or likely to result in substantial property damage to another person.

(3) "Court" means the circuit court.

SECTION 4. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) The court shall have jurisdiction over all proceedings under this chapter. The plaintiff's right to relief under this chapter shall not be affected by his or her leaving the residence or household to avoid further abuse.

(2) Any proceeding under this chapter shall be in accordance with the rules of civil procedure and shall be in addition to any other available civil or criminal remedies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) A person may seek relief under this chapter for himself, or any parent or adult household member

may seek relief under this chapter on behalf of minor children by filing a petition with the court alleging abuse by the defendant. Such petition shall allege that to petitioner's knowledge, no action under KRS Chapter 403 is pending in any other court.

(2) The county attorney, notwithstanding any other law to the contrary, may commence an action pursuant to this chapter in the interest of any adult or household member who is the victim of abuse if available police records or other verificable sources indicate that such adult has been the victim of abuse, unless the victim objects.

(3) A person may seek relief under this chapter notwithstanding that a petition for legal separation, annulment, or dissolution has not been filed in the case of a marital relationship.

SECTION 6. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) Within ten (10) days of the filing of a petition under this chapter a hearing shall be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. The court shall advise the defendant of his right to be represented by counsel. The defendant shall be entitled, as of right, to one continuance for a reasonable period to enable him to meet the petition for an order of protection.

(2) Pending the hearing, the court may enter such temporary orders, without notice, as it deems necessary to protect the plaintiff or minor children from abuse, upon good cause as shown in a verified petition or affidavit. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section. Relief under this section shall include, but not be limited to the provisions of subsection (1)(a) (b) and (c) of Section 7 of this Act.

(3) If a hearing under subsection (1) of this section is continued, the court may make or extend such temporary orders under subsection (2) of this section as it deems necessary.

(4) All hearings shall be recorded.

(5) The court clerk shall transmit a copy of each temporary restraining order, protection order, or extension modification or termination thereof granted pursuant to this chapter by the close of the business day on which such order was granted, to the local law enforcement bodies with jurisdiction over the residence of the party which obtained the restraining order or the residence at which the occurrence of actual domestic violence is the subject of the temporary restraining order. Each appropriate law enforcement agency shall make available, through an existing system for verification, information as to the existence and current status of any temporary restraining order or protection order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence.

SECTION 7. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) The court shall be empowered to grant any protection order or approve any consent agreement to bring about a cessation of abuse of the plaintiff or minor children, which may include, but not be limited to:

(a) Directing the defendant to refrain from abusing the plaintiff or minor children.

(b) Granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff when the residence or household is jointly owned or leased by the parties or is owned or leased by the entirety or is owned or leased solely by the plaintiff.

(c) When the defendant has a duty to support the plaintiff or minor children living in the residence or household and the defendant is the sole owner or lessee, granting possession to the plaintiff of the residence or household to the exclusion of the defendant by evicting the defendant or restoring possession to the plaintiff, or by allowing the defendant to provide suitable, alternate housing.

(d) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children.

(e) Awarding temporary support to dependent spouse or minor children.

(2) Any protection order or approved consent agreement shall be for a fixed period of time not to exceed one (1) year. The court may amend its order or agreement at any time upon subsequent petition filed by either party.

(3) No order or agreement under this chapter shall in any manner affect title to any real property. The excluded party or any person claiming title or possession through the excluded party shall be prohibited from bringing any legal or equitable action designed to give him possession of the premises for the duration of the order.

SECTION 8. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

A copy of any order under this chapter shall be issued to the plaintiff, the defendant and the law enforcement agency with appropriate jurisdiction to enforce the order or consent agreement.

SECTION 9. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) When the court is unavailable or if the circuit judge is out of the county, a petition may be filed before the district judge or trial commissioner. If the district judge or trial commissioner deems it necessary to protect the plaintiff or minor children from abuse, upon good cause shown in an ex-parte proceeding, the district judge or trial commissioner may issue temporary protective order under this Act. Immediate and present danger of abuse to the plaintiff or minor children shall constitute good cause for purposes of this section.

(2) Any order issued under this section and any documentation in support thereof shall be immediately certified to the court. Such certification to the court shall have the effect of commencing proceedings under Section 5 of this Act and invoking the other proceedings of this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) Upon violation of a protection order or a court approved consent agreement the court may hold the defendant in contempt and punish him in accordance with law.

(2) Notwithstanding any provision of the law to the contrary any punishment for this contempt may include a prison term up to six (6) months or a fine not to exceed one thousand dollars ($1,000) or both.

SECTION 11. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) When a peace officer is at the scene of an alleged domestic disturbance and has probable cause to believe that an assault has occurred between family or household members or to believe that one (1) such person has placed another in fear of imminent, serious bodily harm, the peace officer shall arrest and take the alleged assailant in custody.

(2) A peace officer shall arrest and take a person into custody when the officer has probable cause to believe that there exists an order issued pursuant either to KRS 403.160 or this chapter, and that the person has violated the terms of that order. Such violation need not have been committed in the presence of the peace officer. The peace officer may verify, if necessary, the existence of such order by telephone or radio communication with the appropriate law enforcement agencies.

(3) A peace officer who reasonably believes that a person has been a victim of domestic abuse shall:

(a) Transport the victim to the nearest hospital or medical facilities to be examined by a doctor if no other means of transportation is available.

(b) Inform the victim of his right to seek a criminal warrant against the alleged assailant or to seek protection under this chapter.

SECTION 12. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

The husband-wife privilege shall not be grounds for excluding evidence regarding any abuse of a family or household member or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

The Committee Substitute to **HB 499** is as follows:

HB 499, AN ACT relating to domestic abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 408 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the "Domestic Abuse Act."

SECTION 2. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

The purpose of this chapter is:

(1) To allow family and household members who are victims of domestic abuse to obtain effective, short-term protection against further abuse such that the lives of the non-abusing family or household members will be as secure and as little disrupted as possible.

(2) To expand the ability of law-enforcement officers to effectively respond to situations of domestic abuse so as to prevent further incidents of abuse and to assist the victims of such abuse.

(3) To provide for the collection of data concerning domestic abuse in an effort to reduce the reliance on physical violence as a means of resolving domestic disputes through a more comprehensive analysis of its incidence and causes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Family and household members" means spouses, individuals who were formerly spouses, parents or children, or other persons related by consanguinity or affinity, or other household members.

(2) "Abuse" means the occurrence of one (1) or more of the following acts between family or household members:

(a) Causing physical injury to another with or without a deadly or dangerous weapon.

(b) Placing another person in reasonable apprehension of imminent physical injury.

(c) Engaging in conduct which creates a substantial danger of physical injury to another person.

(d) Threatening to commit any crime likely to result in death or serious physical injury to another or likely to result in substantial property damage to another person.

SECTION 4. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court shall have jurisdiction over all proceedings under this chapter. The petitioner's right to relief under this chapter shall not be affected by his or her leaving the residence or household to avoid further abuse.

(2) Any proceeding under this chapter shall be in accordance with the rules of civil procedure and shall be in addition to any other available civil or criminal remedies.

SECTION 5. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) A person may seek relief under this chapter for himself, or any parent or adult household member may seek relief under this chapter on behalf of minor children by filing a verified petition with the circuit court alleging abuse by the respondent.

(2) A person may seek relief under this chapter notwithstanding that a petition for legal separation, annulment, or dissolution has not been filed in the case of a marital relationship.

SECTION 6. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) Upon the motion of either party a hearing shall be held at which the petitioner must prove the allegation of abuse by a preponderance of the evidence.

(2) Pending the hearing, the circuit court may enter such temporary orders, without notice, as it deems necessary to protect the petitioner or minor children from abuse, upon good cause as shown in a verified petition or affidavit. Immediate and present danger of abuse to the petitioner or minor children shall constitute good cause for purposes of this section. Relief under this section shall include, but not be limited to the provisions of subsection (1)(a) (b) and (c) of Section 7 of this Act.

(3) If a hearing under subsection (1) of this section is continued, the circuit court may make or extend such temporary orders under subsection (2) of this section as it deems necessary.

(4) All hearings shall be recorded.

SECTION 7. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court shall be empowered to grant any protection order or approve any consent agreement to bring about a cessation of abuse of the petitioner or minor children, which may include, but not be limited to:

(a) Directing the respondent to refrain from abusing the petitioner or minor children.

(b) Granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner when the residence or household is jointly owned or leased by the parties or is owned or leased by the entirety or is owned or leased solely by the petitioner.

(c) When the respondent has a duty to support the petitioner or minor children living in the residence or household and the respondent is the sole owner or lessee, granting possession to the petitioner of the residence or household to the exclusion of the respondent by evicting the respondent or restoring possession to the petitioner, or allowing the respondent to provide suitable, alternate housing.

(d) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children.

(e) Awarding temporary support to dependent spouse or minor children.

(2) Any protection order or approved consent agreement shall be for a fixed period of time not to exceed one (1) year. The circuit court may amend its order or agreement at any time upon subsequent petition filed by either party.

(3) No order or agreement under this chapter shall in any manner affect title to any real property.

SECTION 8. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) When the circuit court is unavailable or if the circuit judge is out of the county, the petition may be filed before the district judge or trial commissioner. If the district judge or trial commissioner deems it necessary to protect the petitioner or minor children from abuse, upon good cause shown in an ex-parte proceeding, the district judge or trial commissioner may issue a temporary protective order under this Act. Immediate and present danger of abuse to the petitioner or minor children shall constitute good cause for purposes of this section.

(2) Any order issued under this section and any documentation in support thereof shall be immediately certified to the circuit court. Such certification to the circuit court shall have the effect of commencing proceedings under Section 5 of this Act and invoking the other proceedings of this chapter.

SECTION 9. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law, a peace officer shall arrest and take a person into custody when the officer has probable cause to believe that there exists an order issued pursuant either to KRS 403.160 or this chapter, and that the person has violated the terms of that order. The peace officer may verify, if necessary, the existence of such order by telephone or radio communication with the appropriate authorities.

(2) Upon violation of a protection order or a court approved consent agreement the court may hold the respondent in contempt and punish him in accordance with law.

(3) Any person arrested pursuant to this section shall be afforded all rights granted to a person charged with a crime.

SECTION 10. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of law, when a peace officer is at the scene of an alleged domestic disturbance and has probable cause to believe that an assault or related offense as defined in KRS Chapter 508 has occurred between family or household members, the peace officer shall arrest and take the alleged assailant in custody, unless the victim objects in writing.

(2) A peace officer who reasonably believes that a person has been a victim of domestic abuse shall inform the victim of his right to seek a criminal warrant against the alleged assailant or to seek protection under this chapter.

(3) No peace officer shall be held criminally or civilly liable for making an arrest pursuant to this section provided that he acts in good faith on probable cause and without malice.

SECTION 11. A NEW SECTION OF KRS CHAPTER 408 IS CREATED TO READ AS FOLLOWS:

The husband-wife privilege shall not be grounds for excluding evidence regarding any abuse of a family or household member or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

The Committee on State Government reported **HB 590, HB 588, HB 589, HB 331** with Committee Amendment attached thereto, **HCR 94, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598, HCR 68, HR 66** with Committee Amendment attached thereto, **HB 319** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 590, AN ACT relating to transfer to human resources of funds, assets, obligations and resources of bodies incorporated into human resources under 1974 reorganization act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.240, Funds, assets, obligations and resources transferred to department, is repealed.

HB 588, AN ACT relating to pending business of bodies incorporated into the department for human resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.260, pending business and other matters to be completed by department, is repealed.

HB 589, AN ACT relating to the Kentucky children's advisory council.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.840, functions of Kentucky children's advisory council, is repealed.

HB 331, AN ACT relating to the general assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.190 is amended to read as follows:

Beginning as of January 1, 1978, the members of the general assembly, other than the speaker of the house of representatives,the president pro-tempore of the senate and the majority and minority leadership of each house of the general assembly, shall each receive as compensation fifty dollars ($50.00) per day, the president of the senate, the president pro-tempore of the senate and the speaker of the house of representatives shall each receive as compensation seventy-five dollars ($75.00) per day, the majority and minority floor leaders of each house of the general assembly shall each receive as compensation seventy dollars ($70.00) per day, and the assistant president pro-tempore of the senate, the speaker pro-tempore and the majority and minority caucus chairmen and whips of each house of the general assembly shall each receive as compensation sixty-five dollars ($65.00) per day, during the session of the general assembly. In addition to his compensation as a member of the general assembly, each chairman of a standing committee of the house of representatives or the senate shall receive compensation of ten dollars ($10.00) for each regularly scheduled meeting of the standing committee which he chairs during sessions of the general assembly. Effective January 1, 1976, each member of the general assembly, and the president of the senate, shall receive fifteen cents (15¢) per mile *and reimbursement of road tolls* for *one (1)* round *trip for each week of the session* [trips] between his home and the state capitol during regular sessions *and extraordinary sessions* of the general assembly and the necessary travel in going to and returning from the sessions of their respective houses.

The Committee Amendment to **HB 331** is as follows:

Amend printed copy of **HB 331,** page 2, line 6, by inserting "*sixteen cents (16¢)*" at the beginning of line 6 and by placing brackets around "fifteen cents (15¢)" on line 6.

HCR 94, A CONCURRENT RESOLUTION requesting the United States Congress to enact legislation prohibiting the U.S. Army Corps of Engineers from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky.

WHEREAS, during the past 5 years there have been 85 floods in Kentucky causing actual damages amounting to $181,848,000 according to the U.S. Army Corps of Engineers; and

WHEREAS, it is estimated that the floods of April 4-7, 1977 caused property damages well over $100,000,000 to 15 southeastern Kentucky counties and took the lives of 10 persons; and

WHEREAS, it is estimated that the floods of April 4-7, 1977 injured 2,255 persons, caused property losses to 9,715 families, and destroyed or severely damaged 4,507 homes and businesses; and

WHEREAS, the large number of floods, the actual damages caused by the floods, and the sociological damages to persons requiring rehabilitation or relocation evidence the necessity for immediate design and construction of flood control measures to prevent or reduce future damages from floods in the Commonwealth; and

WHEREAS, the benefit/cost ratio can be arbitrarily applied so that costs exceed benefits and deny construction of flood control measures for counties of the Commonwealth subject to flooding;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the United States Congress is hereby requested to enact legislation prohibiting the U.S. Army Corps of Engineers, when determining the necessity for flood control measures, from applying the benefit/cost ratio to flood control projects in the Commonwealth of Kentucky.

Section 2. That the Clerk be directed to send copies of this resolution to the President of the Senate, Speaker of the House, and members of the Kentucky delegation of the United States Congress.

HB 591, AN ACT relating to the transfer of other agencies' functions to the department for human resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.220, transfer of other agencies' functions to department, is repealed.

HB 593, AN ACT relating to protection of information of bodies incorporated into human resources by reorganization act of 1974.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.250, protection of records, files and information, is repealed.

HB 594, AN ACT relating to retention of rules, regulations and contracts of various bodies transferred to department for human resources by 1974 reorganization Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.230, retention of rules, regulations and contracts until modified or repealed by secretary, is repealed.

HB 595, AN ACT relating to rules and regulations of various bodies transferred to human resources under 1974 reorganization Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.180, rules and regulations of various bodies, is repealed.

HB 596, AN ACT relating to alcohol and drug abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 222.033, director of division of alcohol and drug abuse, is repealed.

HB 597, AN ACT relating to transfer of functions of various councils and committees to councils and committees of human resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.210, transfer of functions of councils and committees, is repealed.

HB 598, AN ACT relating to administering of gifts and grants by the department for human resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.190, gifts and grants; administering, is repealed.

HCR 68, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study methods of facilitating population calculations for, and legal requirements relating to, reapportionment and redistricting.

WHEREAS, the General Assembly is, by law, assigned the decennial task of reapportioning state legislative and Congressional districts following the completion of the 1980 United States Census of Population; and

WHEREAS, reapportionment and redistricting have previously been accomplished through the use of existing election precinct lines as the basis for most subdivisions of counties and cities by state legislative or Congressional districts; and

WHEREAS, rapid and accurate calculation of election precinct and district populations is impeded by limited preparation time during legislative sessions and limited methods of calculating populations; and

WHEREAS, reapportionment and redistricting must comply with various legal requirements under federal and state constitutional provisions and court decisions;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be directed to conduct a study of methods for facilitating population calculations for, and legal requirements relating to, state legislative reapportionment and Congressional redistricting. The study shall include:

(1) An assessment of the cost and feasibility of preparing election precinct population estimates prior to the post-1980 reapportionment using 1980 U.S. Census of Population data;

(2) An assessment of the cost and feasibility of using computer facilities to aid in election precinct population estimates and in in-session analysis of population data for alternative reapportionment and redistricting proposals; and

(3) A compilation of post-1970 federal and state court decisions concerning the "one man, one vote" principle and other legal requirements relating to state legislative reapportionment and Congressional redistricting.

Section 2. That the Legislative Research Commission shall make the results of the study directed by this Resolution available to the members of the General Assembly no later than June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost $8,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HR 66, A RESOLUTION commending the employes of the General Assembly and the staff of the Legislative Research Commission.

WHEREAS, the 1978 General Assembly has received the utmost in conscientious and capable assistance from its constitutional and clerical employes and the staff of the Legislative Research Commission; and

WHEREAS, these fine people have without exception displayed courtesy, cooperation, and an unfailing willingness to assist the General Assembly during its 1978 regular session, with complete disregard of partisanship or their own convenience; and

WHEREAS, this House of Representatives now does deem highly appropriate the proper recognition and commendation of all such services, and those so rendering, in all instances with kindness and good humor, despite the pressures of time and the heaviest workload in many years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby honor and commend the constitutional and clerical employes of the General Assembly and the staff of the Legislative Research Commission, for outstanding service to the 1978 regular session of the General Assembly.

The Committee Amendment to **HR 66** is as follows:

Amend printed copy of **HR 66,** page 1, line 2, by deleting the words "constitutional and clerical".

HB 319, AN ACT relating to state legislative districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:

The Commonwealth of Kentucky is divided into representative districts as follows:

(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties.

(2) Second District: Graves County.

(3) Third District: That part of McCracken County contained in the city of Paducah.

(4) Fourth District: Livingston County and that part of McCracken County not contained in the Third District.

(5) Fifth District: Calloway County and that part of Trigg County west of Kentucky Highway 139 and including the city of Cadiz.

(6) Sixth District: Lyon and Marshall Counties and Crittenden County except for voting precincts Marion 4, Marion 6, Rosebud 11, and Shady Grove 12.

(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasure Ridge, Utica, Snyder School, West Louisville, Curdsville, St. Joseph, Rome, Sorgo, Masonville, Stanley, North Town, South Town, Fields, Habit.

(8) Eighth District: That part of Trigg County east of Kentucky Highway 139 but excluding the city of Cadiz; that part of Christian County contained within the following voting precincts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25.

(9) Ninth District: That part of Christian County contained within the following voting precincts: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32; that part of Hopkins County contained within the following voting precincts: 14, 16, 17.

(10) Tenth District: Hopkins County except for voting precincts: 14, 16, 17.

(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara and Hebbardsville, and that portion of the county lying south of Kentucky Highway 416, beginning at its junction with U.S. 41A and proceeding eastward to its junction with Niagara precinct.

(12) Twelfth District: Caldwell and Webster Counties; that part of Crittenden County not included in the Sixth District; that part of McLean County not contained in the Fifteenth District.

(13) Thirteenth District: That part of Daviess County contained in the city of Owensboro but excluding the following voting precincts: 4, 6, 7, 10, 11, 15, 17, 18, 19, 20, 32.

(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.

(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: 2, 3, 6, 8.

(16) Sixteenth District: Todd and Logan Counties.

(17) Seventeenth District: Hancock and Ohio Counties and that part of Butler County not contained within the Nineteenth District.

(18) Eighteenth District: Meade County and Breckinridge County [except the voting precincts of McDaniels, Glen Dean].

(19) Nineteenth District: Edmonson and Grayson Counties; [that part of Breckinridge County contained in voting precincts of McDaniels and Glen Dean;] that part of Butler County included in the census county division of Jetson, bounded by Welch Creek, Blacklick School Road, State Highway 411, county line, Green River, Woodbury city limits, Green River, Welch Creek; and including the cities of Morgantown and Woodbury; and including census enumeration district No. 8, bounded by Green River, Morgantown city limits, State Highway 403, Cool Spring Church Road, unnamed road, U.S. Highway 231, Muddy Creek and county line; that part of Hart County contained in voting precincts: 3, 13, 14, 16, 17.

(20) Twentieth District: That part of Warren County containing all of the city of Bowling Green excluding the voting precincts of Reels Garage, Octogan Inn, Green Meadows and Delefield but including the voting precincts of Miller's Bottled Gas, Watts Mill and Mt. Victor.

(21) Twenty-first District: That part of Simpson County contained in the voting precincts of Harristown, Public School, West Door and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Larue County; that part of Hart County not contained in the Nineteenth District; that part of Marion County not contained in the Fifty-fourth District.

(25) Twenty-fifth District: That part of Hardin County contained in the voting precincts of Elizabethtown East, Elizabethtown West, Elizabethtown Northeast, Elizabethtown Northwest, Elizabethtown North, Helmwood Heights, Mantle, Valley Creek, City Park, Colesburg, Tunnel Hill, Helm, Chelf, Van Meter,

South Dixie, Glendale, Nolin, Sonora, Upton, Melrose and White Mills, and that part of the Fort Knox Military Reservation that lies east of a line beginning at the intersection of the southern boundary of the Fort Knox Military Reservation and State Road 447, and extends northward along State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff North, Radcliff South, Radcliff West, Vine Grove North, Vine Grove South, Vine Grove West, Longview, Yates, Rineyville, Howevalley, St. John, Cecilia, East View, Meeting Creek, and Long Grove and that part of the Fort Knox Military Reservation not included in the Twenty-fifth and Twenty-seventh Districts.

(27) Twenty-seventh District: That part of Hardin County not contained in the Twenty-fifth and Twenty-sixth Districts, that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to State Road 447, thence northward on State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River and that part of Jefferson County contained in voting precincts C8, C18, C19, C23, C44, C53, C70 and C87 of C District of the county.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C31, C33, C40, C43, C45, C47, C56, C57, C58, C65, C66, C72, C73, C78, C79, C82, C90 and C91 of C District of the county.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C21, C30, C34, C39, C46, C50, C54, C55, C59, C60, C64, C67, C69, C71, C74, C75, C80, C81, C85, and C94 of C District of the county.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B7, B10, B13, B14, B15, B18, B19, B21, B22, B24, B38, B42, B43, B48, B54, B58, B64 and B67 of B District of the county.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36 and 38 of the Second Ward of the city of Louisville; voting precincts A22, A36, A38, A39, A43, A50, A63 and A74 of A District of the county, and voting precincts B4, B5, B6, B9, B17, B27, B28, B35, B39, B45, B55, B56 and B68 of B District of the county.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 3, 4, 5, 6, 7, 9, 10, 13, 14, 20, 21, 23, 24, 25, 27, 28, 29, 30, 32 and 33 of the First Ward; voting precincts 1, 2, 3, 4, 5 and 6 of the Second Ward; voting precincts 1 and 2 of the Third Ward of the city of Louisville, and voting precincts A2, A5, A18, A19, A26, A29, A34, A49, A51, A60 and A73 of A District of the county.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 23, 24, 27, 28, 30, 31, 32 and 33 of the second ward of the city of Louisville; voting precinct A 17 of A District of the county, and voting precincts B1, B2, B3, B29, B30, B31, B33, B34, B59 and B70 of B District of the county.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 11, 12, 16, 17 and 19 of the First Ward, and voting precincts 7, 8, 9, 10, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the third ward, voting precinct 11 of the fifth ward of the city of Louisville, and voting precinct B16 of B District of the county.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 17 and 29 of the Third Ward, and voting precincts 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32, and 33 of the Fourth Ward, voting precincts 10 and 13 of the Eighth Ward of the city of Louisville, and voting precincts B8, B11, B12 and B32 of B District of the county.

(36) Thirty-sixth District: That part of Jefferson County containing voting precinct 15 of the First Ward; voting precincts 13 and 16 of the Third Ward; voting precincts 21 and 23 of the Fourth Ward; voting precincts 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Fifth Ward, voting precincts 9, 11, 12 and 14A of the Eighth Ward of the city of Louisville.

(37) Thirty-seventh District: That part of Jefferson County containing voting precinct 34 of the Fourth Ward, voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 29 of the Sixth Ward, and voting precincts 6, 8 and 9 of the Seventh Ward, voting precinct 16 of the Eighth Ward of the city of Louisville, and voting precincts C24 and C88 of C District of the county.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 27, 28, 30, 31, and 32 of the Sixth Ward, voting precincts 3A, 5, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Seventh Ward of the city of Louisville.

(39) Thirty-ninth District: That part of Jefferson County containing voting precincts 1, 2 and 31 of the First Ward, voting precincts 2, 3, and 4 of the Fifth Ward, voting precinct 5 of the Sixth Ward, voting precincts 1, 2, 3, 4, 5, 6, 7, 8 and 15 of the Eighth Ward, and voting precinct 21 of the Ninth Ward, voting precincts 3, 18, 19 and 27 of the Tenth Ward of the city of Louisville.

(40) Fortieth District: That part of Jefferson County containing voting precincts 2 and 4 of the Seventh Ward, voting precincts 17, 18, 19, 20 and 21 of the Eighth Ward, voting precincts 8, 10, 11, 12, 13, 14A, 15A,

16, 17 and 18 of the Ninth Ward, and voting precincts 22, 23, 24, 25 and 26 of the Tenth Ward of the city of Louisville, and voting precincts C9, C25, C27, C35, C51, C63 and C68 of C District of the county.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 28 of the Tenth Ward, voting precincts 1, 5, 9, 18, 19, 20 and 21A of the Eleventh Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7A, 9, 19 and 20 of the Ninth Ward, voting precincts 8, 10, 11, 12, 13, 14, 15, 16 and 17 of the Eleventh Ward, and voting precincts 21, 22, 23, 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 2, 3, 4, 6 and 7 of the Eleventh Ward, and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 12, 13, 14, 15, 16A, 17, 18, 19 and 20 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts C1, C2, C3, C4, C10, C13, C15, C20, C26, C28, C29, C36, C37, C38, C41, C48, C49, C52, C62, C76, C77, C86, C92 and C93 of C District of the county.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B23, B63, and B66 of the B District of the county; voting precincts C12, C14, C16, C17, C22, C32, C42, C61, C83, C84 and C89 of C District of the county.

(46) Forty-sixth District: That part of Jefferson County containing voting precincts B20, B25, B26, B36, B37, B40, B41, B44, B46, B47, B49, B50, B51, B52, B53, B57, B60, B61, B62, B65 and B69 of B District of the county.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A4, A6, A8, A12, A13, A15, A16, A20, A21, A23, A24, A25, A27, A28, A31, A32, A33, A35, A37, A41, A42, A45, A46, A53, A58, A64, A68, A69, A71, A72, A77, A80 and A81 of A District of the county.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts A1, A3, A7, A9, A10, A11, A14, A30, A40, A44, A47, A48, A52, A54, A55, A56, A57, A59, A61, A62, A65, A66, A67, A70, A75, A76, A78 and A79 of A District of the county.

(49) Forty-ninth District: Bullitt and Spencer Counties.

(50) Fiftieth District: Nelson County; that part of Washington County not contained in the Fifty-fourth District; that part of Anderson County contained in voting precincts 10, 11.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County not contained in the Fifty-third District.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County contained within the county census division of Eli bounded by: State Highway 80; county line, Lake Cumberland, Caney Creek, Caney Fork, Clear Fork, Dunbar Trail, Dunbar Road, West Wilson Road, State Highway 80, that part of Russell County contained within the county census division of Bryan bounded by: State Highway 92, Greasy Creek, Bethel Creek Fork, Blankenship Road, State Highway 55, Helen Road, State Highway 35, county line.

(54) Fifty-fourth District: Boyle County; that part of Marion County contained in voting precincts 1, 2, 3; that part of Washington County contained in voting precincts 5, 6, 7, 8, 9, 10.

(55) Fifty-fifth District: Garrard and Mercer Counties; that part of Anderson County not contained in the Fiftieth District.

(56) Fifty-sixth District: Jessamine and Woodford Counties.

(57) Fifty-seventh District: Franklin County.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Carroll, Gallatin, Oldham, and Trimble Counties.

(60) Sixtieth District: Boone County.

(61) Sixty-first District: Bracken, Grant and Owen Counties and Pendleton County except for the voting precincts of Bonar and Sandsuck.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crestview, Edgewood 1, 2 and 3; Elsmere 4; Erlanger 1, 2, and 7; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; and Sandfordtown.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30, 40, 41, 42 and 43, Decoursey, Independence 1 and 2, Morningview, Nicholson, Oakridge, Piner, Richardson, Taylor Mill 1 and 2, Visalia, Whites Tower, Winston Park.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 12, 14, 15, 17, 18, 19, 20, 20A, 23, 24, 25, 31, 33, 34, 35, 36 and 39.

(66) Sixty-sixth District: That part of Kenton County containing the following voting precincts: Covington 6, 7, 10, 10A and 13, Bromley, Crescent Springs, Elsmere 1, 2 and 3, Erlanger 4, 5, 6, 8 and 9,

Ludlow 1, 2, 3, 4 and 5, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport, the city of Wilder, the city of Southgate except voting precinct Southgate B; that part of Kenton County containing voting precincts Covington 1, 3.

(68) Sixty-eighth District: That part of Campbell County containing all the voting precincts in the city of Bellevue; all the voting precincts in the city of Dayton; voting precincts A, B, C, D, E, G, L and P in the city of Fort Thomas and the voting precincts of Woodlawn, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs and Melbourne.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County contained in the voting precincts of Bonar and Sandsuck.

(70) Seventieth District: Mason and Robertson Counties; that part of Fleming County not in the Seventy-fourth District; that part of Rowan County contained in census enumeration district 3 bounded by Bath County line, Triplett Creek, Morehead city limits, Kentucky Highway 32, Fleming County line.

(71) Seventy-first District: Morgan and Menifee Counties; that part of Rowan County not contained in the Seventieth District; the Northern part of Wolfe County bounded by Kentucky Highway 15, Campton City limits, Kentucky Highway 746, Mountain Parkway Extension, Morgan County line, Menifee County line, Powell County line, including the city of Campton.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and Powell Counties.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties, and that part of Fleming County contained in census enumeration district 9 bounded by county line, Three Mile Run, State Highway 1325 (Three Mile Road), Cane Road, State Highway 1123 (Peck's Ridge Road), State Highway 57, Craintown Road, and State Highway 32 westward to county line.

(75) Seventy-fifth District: That part of Fayette County contained within the following described boundaries: Beginning at the intersection of South Broadway and Mason Headley Road; then with the center line of South Broadway in a northeastwardly direction to the intersection of South Broadway and Virginia Avenue; then in a northwestwardly direction with the western boundary of the Kentucky Trotting Horse Breeders Association property (Red Mile) to the Versailles Pike across from the intersection of Forbes Road; then in a generally northwardly direction with the center line of Forbes Road to its intersection with the Old Frankfort Pike to its intersection with Leestown Pike (West Main Street); then in a southeastwardly direction with the center line of West Main Street to its intersection with Newtown Pike; then in a northwestwardly direction with the center line of Newtown Pike to its intersection with West Fourth Street; then in a southeastwardly direction with the center line of West Fourth Street to the Louisville and Nashville Railroad Company crossing; then in a northeastwardly direction with the center line of the right-of-way of the Louisville and Nashville Railroad Company to its crossing of the Russell Cave Pike (Ky 353); then in a generally southwardly direction along the center line of the Russell Cave Pike to Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southeastwardly direction with the center line of Maple Avenue to its intersection with East Seventh Street and in a southeastwardly direction along the center line of East Seventh Street to its intersection with Shropshire; then in a southwestwardly direction with the center line of Shropshire Avenue to East Sixth Street and in a northwestwardly direction with the center line of East Sixth Street to its intersection with Pemberton; then in a southwestwardly direction with the center line of Pemberton to its intersection with East Fifth Street; then in a southeastwardly direction with the center line of East Fifth Street to its intersection with Race Street and in a southwestwardly direction with the center line of Race Street to its intersection with East Third Street; then in a southeastwardly direction with the center line of East Third Street to its intersection with Walton Avenue; then in a southwestwardly direction with the center line of Walton Avenue to its intersection with East Main Street and in a northwestwardly direction with the center line of East Main Street to its intersection with Ransom Avenue; then in a southwestwardly direction with the center line of Ransom Avenue to its intersection with East High Street and in a generally southwardly direction with the center line of East High Street to its intersection with Sunset, then in a northwestwardly direction with the center line of Sunset to Lafayette Avenue and continuing along the center line of Columbia (Sunset) to its intersection with Woodland Avenue and in a southwestwardly direction with the center line of Woodland Avenue to its intersection with Huguelet and in a northwestwardly direction along the center line of Huguelet to its intersection with Rose Street and in a southwestwardly direction with the center line of Rose Street to its intersection with South Limestone; then continuing in a southwestwardly direction along the center line of South Limestone to its intersection of Waller Avenue and then in a northwestwardly direction along the center line of Waller Avenue to its intersection with South Broadway and the Mason Headley Road, the point of beginning.

(76) Seventy-sixth District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of East Third Street and Race Street; then in a southeastwardly direction along

the center line of East Third Street to a point opposite the northwest property line of Richmond Avenue; then in a southwestwardly direction with said property line of Richmond Avenue to East Main Street and then in a southeastwardly direction along the center line of East Main Street to its intersection with Henry Clay Boulevard; then in a northeastwardly direction with the center line of Henry Clay Boulevard to its intersection with Menifee Avenue and in a southeastwardly direction with the center line of Menifee Avenue to a point in the southeast property line of Holiday Road; then with said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks; then in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road (Ky 4); then in a generally northwardly direction along the center line of the New Circle Road to its intersection with the Winchester Pike (US 60); then in a generally eastwardly direction with the center line of the Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to its overpass on the Russell Cave Pike (Ky 353); then in a southwestwardly direction with the center line of Russell Cave Pike to its intersection with the New Circle Road; then in a southeastwardly direction with the center line of New Circle Road to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction with the center line of North Limestone to its intersection with Carlisle Avenue; then in a southeastwardly direction along the center line of Carlisle Avenue to its intersection of Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southwestwardly direction with the center line of Maple Avenue to East Seventh Street; then in a southeastwardly direction along the center line of East Seventh Street to Shropshire; then in a southwestwardly direction along the center line of Shropshire to East Sixth Street; then in a northwestwardly direction along the center line of East Sixth Street to Pemberton; then in a southwestwardly direction the center line of Pemberton to East Sixth Street; then in a southeastwardly direction with the center line of East Fifth Street to Race Street; then in a southwestwardly direction along the center line of Race Street to its intersection with East Third Street, the point of beginning.

(77) Seventy-seventh District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of the Versailles Road (US 60) and the New Circle Road (Ky 4); then with the New Circle Road in a generally northeastwardly direction to the following intersections: Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike and North Broadway to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction along the center line of North Limestone to Carlisle Avenue; then in a southeastwardly direction with the center line of Carlisle Avenue to Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue and in a northwestwardly direction with the center line of Louden Avenue to its intersection with Russell Cave Pike and in a generally northwardly direction with the center line of the Russell Cave Pike to the Louisville and Nashville Railroad crossing; then in a southwestwardly direction with the right-of-way with the Louisville and Nashville Railroad to West Fourth Street; then in a northwestwardly direction along the center line of West Fourth Street to the Newtown Pike and in a southwestwardly direction the center line of the Newtown Pike to West Main Street; then in a northwestwardly direction with West Main Street (Leestown Pike) to Forbes Road; then in a southwestwardly direction the center line of Forbes Road to the Versailles Road and across the Versailles Road and along the western property line of the Kentucky Trotting Horse Breeders Association (Red Mile) to South Broadway and in a southwestwardly direction along the center line of South Broadway to Clays Mill Road and continuing in a southwestwardly direction along the center line of Clays Mill Road to Longview Drive; then in a northwestwardly direction along the center line of Longview Drive to the Harrodsburg Road; then in a northeastwardly direction along the center line of the Harrodsburg Road to the Lane Allen Road and in a northwestwardly direction along the center line of Lane Allen Road to Garden Springs Drive; then in a southwestwardly direction along the center line of Garden Springs Drive to Cypress Drive; then in a southeastwardly direction along Cypress Drive to Poppy Lane; then in a southwestwardly direction along a line extended from the end of Poppy Lane to the point opposite Aster Road and in a southeastwardly direction along a line extending from the end of Aster Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to the New Circle Road and in a northwestwardly direction along the center line of New Circle Road to a point opposite the center line of Lansill Road and in a northeastwardly direction along the center line of Lansill Road to a point on the Lane Allen Road; then continuing in a northeastwardly direction along the center line of Traveller Road to the northwest property line of Antietam Road; then in a generally northwardly direction along the line between the rear property lines of Traveller Road and Alexandria Drive to the Parkers Mill Road; then continuing in a generally northwardly direction along the center line of the Parkers Mill Road to Versailles Road; then in a westwardly direction along the center line of Versailles Road to the New Circle Road, the point of beginning.

(78) Seventy-eighth District: That part of Fayette County contained within the following boundaries: Beginning on Versailles Pike (US 60) at the Woodford County line; then eastwardly with the center line of the Versailles Pike to the intersection with the New Circle Road, then continuing along the Versailles Pike to Parkers Mill Road; then in a generally southwardly direction along the center line of Parkers Mill Road and continuing in a southerly direction along the rear property lines of Traveller Road and Alexandria Drive to the

northwestwardly property line of Antietam Road and in a southwestwardly direction with said property line of Antietam Road to the center line of Traveller Road and with the center line of Traveller Road to the Lane Allen Road; then in a southwestwardly direction to the center line of Lansill Road, continuing along the center line of Lansill Road and on to New Circle Road and in a southeastwardly direction along the center line of the New Circle Road to the Harrodsburg Road and in a northeastwardly direction along the center line to the Harrodsburg Road to a point opposite Aster Road and in a northwestwardly direction along a line to a point opposite Poppy Lane; then in a northeastwardly direction along a line to the end of Poppy Lane and continuing on the center line of Poppy Lane to Cypress Drive; then in a northwestwardly direction along the center line of Cypress Drive to Garden Springs Drive; then in a northeastwardly direction along the center line of Garden Springs Drive to Lane Allen Road; then in a southeastwardly direction along the center line of Lane Allen Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to Longview Drive; then in a southeastwardly direction along the center line of Longview Drive to Clays Mill Road; then in a northeastwardly direction along the center line of Clays Mill Road to Harrodsburg Road continuing in a northeastwardly direction along the center line of the Harrodsburg Road to its intersection of Waller Avenue; then in a southeastwardly direction along the center line of Waller Avenue to South Limestone; then in a northeastwardly direction along the center line of North Limestone to Rose Street continuing in a northeastwardly direction along the center line of Rose Street to Huguelet, then in a southeastwardly direction along the center line of Huguelet to Woodland Avenue; then in a northeastwardly direction along the center line of Woodland Avenue to Columbia Avenue; then in a southeastwardly direction along the center line of Columbia Avenue to Lafayette Avenue and continuing along the center line of Sunset (Columbia Avenue) to the Tates Creek Pike; then in a generally southerly direction along the center line of Tates Creek Pike to Lansdowne Drive; then in a southwestwardly direction along the center line of Lansdowne Drive to Zandale Drive; then in a northwestwardly direction along the center line of Zandale Drive to South Limestone (Nicholasville Pike); then in a southwestwardly direction along the center line of Nicholasville Pike to the Wilson-Downing Road; then in a southeastwardly direction along the center line of the Wilson-Downing Road to the Tates Creek Pike (Ky 1974); then in a generally southerly direction along the center line of the Tates Creek Pike to the Fayette County line; then along the Fayette County line in a generally northwestwardly direction to the Versailles Pike (US 60), the point of beginning.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following boundaries: Beginning at the Kentucky River at the landing of Tates Creek Pike; then in a generally northwestwardly direction along the center line of the Tates Creek Pike to the Wilson-Downing Road; then continuing in a northwestwardly direction along the center line of the Wilson-Downing Road to the Nicholasville Road and in a northeastwardly direction along the center line of the Nicholasville Road (South Limestone) to Zandale Drive; then in a southeastwardly direction along the center line of Zandale Drive to Lansdowne Drive; then in a northeastwardly direction along the center line of Lansdowne Drive to Tates Creek Pike; then in a generally northwardly direction along the center line of Tates Creek Pike (East High Street) to Ransom Avenue and in a northeastwardly direction along the center line of Ransom Avenue to East Main Street and in a southeastwardly direction along the center line of East Main Street to Walton Avenue, then in a northwestwardly direction along the center line of Walton Avenue to East Third Street; then in a southeastwardly direction along the center line of East Third Street to a point opposite the northwestern property line of Richmond Avenue; then in a southwestwardly direction along said property line of Richmond Avenue to East Main Street and in a southeastwardly direction with the center line of East Main Street to Henry Clay Boulevard and in a northeastwardly direction with the center line of Henry Clay Boulevard to Menifee Avenue and in a southeastwardly direction along the center line of Menifee Avenue to a point in the southeastern property line of Holiday Road; then in a northeastwardly direction along said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks and in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road; then in a generally northerly direction along the center line of the New Circle Road to the Winchester Pike (US 60) and in a generally eastwardly direction along the Winchester Pike to the Interstate 64-75 interchange; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to the Bryan Station Pike (Ky 956) and in a northwestwardly direction along the center line of the Bryan Station Pike to the Muir Station Pike; then in a southeastwardly direction along center line of the Muir Station Pike to the Briar Hill Pike; then in a northeastwardly direction along the center line of the Briar Hill Pike to the Bourbon County line; then following the Fayette County line in a generally southerly direction to the Kentucky River and along the Kentucky River to the Tates Creek Pike, the point of beginning.

(80) Eightieth District: Lincoln and Rockcastle Counties and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 27, Good Hope 28 and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Eighty-fourth District.

(82) Eighty-second District: Whitley County; that part of McCreary County contained within the county census division of Pine Knot bounded by: Blue Heron Road extended, Blue Heron Road, State Highway 742, U. S. Highway 27, Laurel Creek, Marsh Creek, Duck Run, county line, state line, South Fork Cumberland River;

that part of McCreary County contained within the County Census Division of Cooperative bounded by: South Fork Cumberland River, state line, county line; that part of McCreary County contained within the county census division of Stearns bounded by: Lick Creek, Bridge Fork, Laurel Creek, U. S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended, South Fork Cumberland River.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District.

(84) Eighty-fourth District: Estill and Jackson Counties and that part of Madison County contained in the city of Berea and in voting precincts 19 and 20.

(85) Eighty-fifth District: Laurel County and that part of McCreary County not contained in the Eighty-second District.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts 1, 8, 12, 13, 14, 15.

(87) Eighty-seventh District: Bell County and that part of Harlan County contained in voting precinct Pathfork 41.

(88) Eighty-eighth District: That part of Harlan County not contained in the Eighty-seventh and Ninetieth Districts.

(89) Eighty-ninth District: Breathitt and Lee Counties and that part of Wolfe County not contained in the Seventy-first District, and that part of Perry County contained in census county division of Big Creek, Blue Diamond Buckhorn, Yerkes-Busy and Krypton lying north and east of the following boundary: Leslie County line, Big Creek-Right Fork Divide, Buffalo Fork Big Creek-Buffalo Creek Divide, Brown's Fork-Buffalo Creek Divide, Messer Branch-Davidson Branch Divide, Happy Hollow, Hazard City limits, Walker Branch-North Fork Kentucky River Divide; Laurel Fork-Lost Creek-First Creek Divide, Sixteenmile Creek-Lower Second Creek Divide, Lost Creek, Grapevine Creek Divide, Tenmile Creek-Grapevine Creek Divide, Breathitt County line, Owsley County line, and Clay County line.

(90) Ninetieth District: Leslie and Owsley Counties, and that part of Harlan County contained in the voting precincts of Pine Mountain-Big Laurel No. 11, Bledsoe No. 12, New Baxter No. 9, Old Baxter No. 8, School House Loyall No. 35, City Hall Loyall No. 34, Rio Vista No. 36, and Putney No. 10, and that part of Clay County contained in voting precincts 2, 3, 4, 5, 6, 7, 9, 10, 11.

(91) Ninety-first District: That part of Perry County not contained in the Eighty-ninth district, and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott and Magoffin Counties; that part of Letcher County contained in census county division of Blackey, Colson, Fleming-Neon, and census enumeration districts 21 and 22, lying northwest of the following boundary: Perry County line, Turkey Creek-Defeated Creek Divide, Whittaker Branch Road, Tolson Branch Road, Kentucky Highway 588, Mills Branch Road, Mills Branch Spur Road, Rockhouse Creek-Smoot Creek Divide, Kentucky Highway 15, Smoot Creek-Dry Fork Divide, Rockhouse Creek-North Fork Kentucky River Divide, Millstone Creek Road, Kentucky Highway 803, State Highway 113, North Fork Kentucky River, U. S. Highway 119, Seco city limits, U.S. Highway 119, Jenkins city limits, McRoberts city limits, Fleming city limits, and from Hemphill-Jackhorn P.O. due north to Pike County line, including the cities of Seco and Fleming.

(93) Ninety-third District: That part of Pike County contained in voting precincts Caney 20, Yeager 21, Old Shelby 22, Long Fork 23, Dorton 24 and Elmwood in district 2; Marrowbone 30, Rockhouse 31, Henry Clay 32, Hellier 33, Ashcamp 34 and Rasnick 35 in district 3; Millard 40, Lick Creek 42, Grapevine 43, and Garden Village 46 in district 4; Raccoon 51 in district 5; Peter 70, Blackberry 71, Knox 72, Freeburn-Cline 73, Wolford 74, Bluesprings 75, Majestic 76 in district 7; Mouthcard 80, Upper Elkhorn 81, Elkhorn City Hall 82, Belcher 83, Feds Creek 84, Looney 85 in district 8.

(94) Ninety-fourth District: That part of Pike County not contained in the Ninety-third District; that part of Floyd County not contained in the Ninety-fifth District.

(95) Ninety-fifth District: Floyd County except for the voting precincts Herold, Toler Creek, Antioch, Branhams Creek, Head of Mud, Tickey.

(96) Ninety-sixth District: Carter and Lewis Counties.

(97) Ninety-seventh District: Johnson and Martin Counties, and that part of Lawrence County contained in voting precincts 7, 9, 10, 11, 12, 13 and 14.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-ninth District.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County contained in voting precincts 1, 2, 3, 4, 5, 6 and 8; that part of Boyd County containing the following voting precincts: Court House 1, City Building 2, Argo 3, Hampton 4, Rockdale 5, England Hill 7, Durbin 8, East Fork 9, Cannonsburg 10, Princess 11, Garner 12, Hoods Creek 13, Fairview 14, Buckley 15, Westwood 16, Millseat 17; that part of Greenup County contained in census enumeration district 10, known as Bellefonte City, bounded by county line, Country Club Drive (State Highway 693) to its junction with State Highway 1725, then southeasterly to the county line.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District.

The Committee Substitute to **HB 319** is as follows:

HB 319, AN ACT relating to state legislative districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.031 is amended to read as follows:
The Commonwealth of Kentucky is divided into representative districts as follows:
(1) First District: Ballard, Carlisle, Fulton, and Hickman Counties.
(2) Second District: Graves County.
(3) Third District: That part of McCracken County contained in the city of Paducah.
(4) Fourth District: Livingston County and that part of McCracken County not contained in the Third District.
(5) Fifth District: Calloway County and that part of Trigg County *contained in the voting precincts of Canton, West Cadiz, South Cadiz 1 and South Cadiz 2* [west of Kentucky Highway 139 and including the city of Cadiz].
(6) Sixth District: Lyon and Marshall Counties and Crittenden County except for voting precincts Marion 4, Marion 6, Rosebud 11, and Shady Grove 12.
(7) Seventh District: Union County; that part of Henderson County not contained in the Eleventh District; that part of Daviess County contained in the voting precincts of Pleasure Ridge, Utica, Snyder School, West Louisville, Curdsville, St. Joseph, Rome, Sorgo, Masonville, Stanley, North Town, South Town, Fields, Habit.
(8) Eighth District: That part of Trigg County *contained in the voting precincts of North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring* [east of Kentucky Highway 139 but excluding the city of Cadiz]; that part of Christian County contained within the following voting precincts: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 24, 25.
(9) Ninth District: That part of Christian County contained within the following voting precincts: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32; that part of Hopkins County contained within the following voting precincts: 14, 16, 17.
(10) Tenth District: Hopkins County except for voting precincts: 14, 16, 17.
(11) Eleventh District: Henderson County, except for the voting precincts of South Corydon, Niagara and Hebbardsville, and that portion of the county lying south of Kentucky Highway 416, beginning at its junction with U.S. 41A and proceeding eastward to its junction with Niagara precinct.
(12) Twelfth District: Caldwell and Webster Counties; that part of Crittenden County not included in the Sixth District; that part of McLean County not contained in the Fifteenth District.
(13) Thirteenth District: That part of Daviess County contained in the city of Owensboro but excluding the following voting precincts: 4, 6, 7, 10, 11, 15, 17, 18, 19, 20, 32.
(14) Fourteenth District: That part of Daviess County not contained in the Seventh District or in the Thirteenth District.
(15) Fifteenth District: Muhlenberg County and that part of McLean County contained in voting precincts: 2, 3, 6, 8.
(16) Sixteenth District: Todd and Logan Counties.
(17) Seventeenth District: Hancock and Ohio Counties and that part of Butler County not contained within the Nineteenth District.
(18) Eighteenth District: Meade County and Breckinridge County [except the voting precincts of McDaniels, Glen Dean].
(19) Nineteenth District: Edmonson and Grayson Counties; [that part of Breckinridge County contained in voting precincts of McDaniels and Glen Dean;] that part of Butler County included in the census county division of Jetson, bounded by Welch Creek, Blacklick School Road, State Highway 411, county line, Green River, Woodbury city limits, Green River, Welch Creek; and including the cities of Morgantown and Woodbury; and including census enumeration district No. 8, bounded by Green River, Morgantown city limits, State Highway 403, Cool Spring Church Road, unnamed road, U.S. Highway 231, Muddy Creek and county line; that part of Hart County contained in voting precincts: 3, 13, 14, 16, 17.
(20) Twentieth District: That part of Warren County containing all of the city of Bowling Green excluding the voting precincts of Reels Garage, Octogan Inn, Green Meadows and Delefield but including the voting precincts of Miller's Bottled Gas, Watts Mill and Mt. Victor.
(21) Twenty-first District: That part of Simpson County contained in the voting precincts of Harristown, Public School, West Door and Prospect Hill and that part of Warren County not contained in the Twentieth District.

(22) Twenty-second District: Allen and Monroe Counties, and that part of Simpson County not contained in the Twenty-first District.

(23) Twenty-third District: Barren County and that part of Metcalfe County containing voting precincts Randolph-Wisdom No. 3, Knob Lick No. 4, Savoyard No. 5, Summer Shade No. 8 and Willow Shade-Beaumont No. 9.

(24) Twenty-fourth District: Larue County; that part of Hart County not contained in the Nineteenth District; that part of Marion County not contained in the Fifty-fourth District.

(25) Twenty-fifth District: That part of Hardin County contained in the voting precincts of Elizabethtown East, Elizabethtown West, Elizabethtown Northeast, Elizabethtown Northwest, Elizabethtown North, Helmwood Heights, Mantle, Valley Creek, City Park, Colesburg, Tunnel Hill, Helm, Chelf, Van Meter, South Dixie, Glendale, Nolin, Sonora, Upton, Melrose and White Mills, and that part of the Fort Knox Military Reservation that lies east of a line beginning at the intersection of the southern boundary of the Fort Knox Military Reservation and State Road 447, and extends northward along State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River.

(26) Twenty-sixth District: That part of Hardin County contained in the voting precincts of Radcliff North, Radcliff South, Radcliff West, Vine Grove North, Vine Grove South, Vine Grove West, Longview, Yates, Rineyville, Howevalley, St. John, Cecilia, East View, Meeting Creek, and Long Grove and that part of the Fort Knox Military Reservation not included in the Twenty-fifth and Twenty-seventh Districts.

(27) Twenty-seventh District: That part of Hardin County not contained in the Twenty-fifth and Twenty-sixth Districts, that part of the Fort Knox Military Reservation whose southern boundary is Chaffee Avenue extended westward to the Hardin-Meade County line and eastward to State Road 447, thence northward on State Road 447 and a line extending northward through Pleasant View Cemetery and Fort Hill Cemetery to the Jefferson County line at Salt River and that part of Jefferson County contained in voting precincts C8, C18, C19, C23, C44, C53, C70 and C87 of C District of the county.

(28) Twenty-eighth District: That part of Jefferson County containing voting precincts C7, C31, C33, C40, C43, C45, C47, C56, C57, C58, C65, C66, C72, C73, C78, C79, C82, C90 and C91 of C District of the county.

(29) Twenty-ninth District: That part of Jefferson County containing voting precincts C5, C6, C11, C21, C30, C34, C39, C46, C50, C54, C55, C59, C60, C64, C67, C69, C71, C74, C75, C80, C81, C85, and C94 of C District of the county.

(30) Thirtieth District: That part of Jefferson County containing voting precinct 37 of the Third Ward of the city of Louisville, and voting precincts B7, B10, B13, B14, B15, B18, B19, B21, B22, B24, B38, B42, B43, B48, B54, B58, B64 and B67 of B District of the county.

(31) Thirty-first District: That part of Jefferson County containing voting precincts 16, 17, 19, 26, 29, 34, 35, 36 and 38 of the Second Ward of the city of Louisville; voting precincts A22, *A35,* A36, [A38,] A39, A43, [A50,] A63, *A80, A81* and *A123* [A74] of A District of the county, and voting precincts B4, B5, B6, B9, B17, B27, B28, B35, B39, B45, B55, B56 and B68 of B District of the county.

(32) Thirty-second District: That part of Jefferson County containing voting precincts 3, 4, 5, 6, 7, 9, 10, 13, 14, 20, 21, 23, 24, 25, 27, 28, 29, 30, 32 and 33 of the First Ward; voting precincts 1, 2, 3, 4, 5 and 6 of the Second Ward; voting precincts 1 and 2 of the Third Ward of the city of Louisville, and voting precincts A2, A5, A18, A19, A26, A29, A34, A49, A51, A60 and A73 of A District of the county.

(33) Thirty-Third District: That part of Jefferson County containing voting precincts 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, 20, 21, 23, 24, 27, 28, 30, 31, 32 and 33 of the second ward of the city of Louisville; voting precinct A 17 of A District of the county, and voting precincts B1, B2, B3, B29, B30, B31, B33, B34, B59 and B70 of B District of the county.

(34) Thirty-fourth District: That part of Jefferson County containing voting precincts 11, 12, 16, 17 and 19 of the First Ward, and voting precincts 7, 8, 9, 10, 11, 12, 14, 15, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35 and 36 of the third ward, voting precinct 11 of the fifth ward of the city of Louisville, and voting precinct B16 of B District of the county.

(35) Thirty-fifth District: That part of Jefferson County containing voting precincts 17 and 29 of the Third Ward, and voting precincts 5A, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 22, 25, 26, 27, 28, 29, 30, 32, and 33 of the Fourth Ward, voting precincts 10 and 13 of the Eighth Ward of the city of Louisville, and voting precincts B8, B11, B12 and B32 of B District of the county.

(36) Thirty-sixth District: That part of Jefferson County containing voting precinct 15 of the First Ward; voting precincts 13 and 16 of the Third Ward; voting precincts 21 and 23 of the Fourth Ward; voting precincts 5, 6, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 of the Fifth Ward, voting precincts 9, 11, 12 and 14A of the Eighth Ward of the city of Louisville.

(37) Thirty-seventh District: That part of Jefferson County containing voting precinct 34 of the Fourth Ward, voting precincts 4, 6, 7, 8, 9, 10, 11, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 29 of the Sixth Ward, and voting precincts 6, 8 and 9 of the Seventh Ward, voting precinct 16 of the Eighth Ward of the city of

Louisville, and voting precincts C24 and C88 of C District of the county.

(38) Thirty-eighth District: That part of Jefferson County containing voting precincts 12, 13, 15, 16, 27, 28, 30, 31, and 32 of the Sixth Ward, voting precincts 3A, 5, 7, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the Seventh Ward of the city of Louisville.

(39) Thirty-ninth District: That part of Jefferson County containing voting precincts 1, 2 and 31 of the First Ward, voting precincts 2, 3, and 4 of the Fifth Ward, voting precinct 5 of the Sixth Ward, voting precincts 1, 2, 3, 4, 5, 6, 7, 8 and 15 of the Eighth Ward, and voting precinct 21 of the Ninth Ward, voting precincts 3, 18, 19 and 27 of the Tenth Ward of the city of Louisville.

(40) Fortieth District: That part of Jefferson County containing voting precincts 2 and 4 of the Seventh Ward, voting precincts 17, 18, 19, 20 and 21 of the Eighth Ward, voting precincts 8, 10, 11, 12, 13, 14A, 15A, 16, 17 and 18 of the Ninth Ward, and voting precincts 22, 23, 24, 25 and 26 of the Tenth Ward of the city of Louisville, and voting precincts C9, C25, C27, C35, C51, C63 and C68 of C District of the county.

(41) Forty-first District: That part of Jefferson County containing voting precincts 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21 and 28 of the Tenth Ward, voting precincts 1, 5, 9, 18, 19, 20 and 21A of the Eleventh Ward of the city of Louisville.

(42) Forty-second District: That part of Jefferson County containing voting precincts 1, 2, 3, 4, 5, 6, 7A, 9, 19 and 20 of the Ninth Ward, voting precincts 8, 10, 11, 12, 13, 14, 15, 16 and 17 of the Eleventh Ward, and voting precincts 21, 22, 23, 24 and 25 of the Twelfth Ward of the city of Louisville.

(43) Forty-third District: That part of Jefferson County containing voting precincts 2, 3, 4, 6 and 7 of the Eleventh Ward, and voting precincts 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11A, 12, 13, 14, 15, 16A, 17, 18, 19 and 20 of the Twelfth Ward of the city of Louisville.

(44) Forty-fourth District: That part of Jefferson County containing voting precincts C1, C2, C3, C4, C10, C13, C15, C20, C26, C28, C29, C36, C37, C38, C41, C48, C49, C52, C62, C76, C77, C86, C92 and C93 of C District of the county.

(45) Forty-fifth District: That part of Jefferson County containing voting precincts B23, B63, and B66 of the B District of the county; voting precincts C12, C14, C16, C17, C22, C32, C42, C61, C83, C84 and C89 of C District of the county.

(46) Forty-sixth District: That part of Jefferson County containing voting precincts B20, B25, B26, B36, B37, B40, B41, B44, B46, B47, B49, B50, B51, B52, B53, B57, B60, B61, B62, B65 and B69 of B District of the county.

(47) Forty-seventh District: That part of Jefferson County containing voting precincts A4, A6, A8, A12, A13, A15, A16, A20, A21, A23, A24, A25, A27, A28, A31, A32, A33, [A35,] A37, *A38,* A41, A42, A45, A46, *A50,* A53, A58, A64, A68, A69, A71, A72, *A74,* A77, *A136* [A80] and *A149* [A81] of A District of the county.

(48) Forty-eighth District: That part of Jefferson County containing voting precincts A1, A3, A7, A9, A10, A11, A14, A30, A40, A44, A47, A48, A52, A54, A55, A56, A57, A59, A61, A62, A65, A66, A67, A70, A75, A76, A78 and A79 of A District of the county.

(49) Forty-ninth District: Bullitt and Spencer Counties.

(50) Fiftieth District: Nelson County; that part of Washington County not contained in the Fifty-fourth District; that part of Anderson County contained in voting precincts 10, 11.

(51) Fifty-first District: Green and Taylor Counties, and that part of Metcalfe County not contained in the Twenty-third District.

(52) Fifty-second District: Adair and Casey Counties and that part of Russell County not contained in the Fifty-third District.

(53) Fifty-third District: Wayne, Clinton and Cumberland Counties; that part of Russell County contained within the county census division of Eli bounded by: State Highway 80; county line, Lake Cumberland, Caney Creek, Caney Fork, Clear Fork, Dunbar Trail, Dunbar Road, West Wilson Road, State Highway 80, that part of Russell County contained within the county census division of Bryan bounded by: State Highway 92, Greasy Creek, Bethel Creek Fork, Blankenship Road, State Highway 55, Helen Road, State Highway 35, county line.

(54) Fifty-fourth District: Boyle County; that part of Marion County contained in voting precincts 1, 2, 3; that part of Washington County contained in voting precincts 5, 6, 7, 8, 9, 10.

(55) Fifty-fifth District: Garrard and Mercer Counties; that part of Anderson County not contained in the Fiftieth District.

(56) Fifty-sixth District: Jessamine and Woodford Counties.

(57) Fifty-seventh District: Franklin County.

(58) Fifty-eighth District: Henry and Shelby Counties.

(59) Fifty-ninth District: Carroll, Gallatin, Oldham, and Trimble Counties.

(60) Sixtieth District: Boone County.

(61) Sixty-first District: Bracken, Grant and Owen Counties and Pendleton County except for the voting precincts of Bonar and Sandsuck.

(62) Sixty-second District: Harrison and Scott Counties.

(63) Sixty-third District: That part of Kenton County containing the following voting precincts: Crestview, Edgewood 1, 2 and 3; Elsmere 4; Erlanger 1, 2, and 7; Fort Mitchell 1, 2, 3, 4, 5 and 6; Fort Wright 1, 2, 3, 4 and 5; Lakeside Park 1, 2 and 3; Park Hills 1, 2 and 3; and Sandfordtown.

(64) Sixty-fourth District: That part of Kenton County containing the following voting precincts: Bracht, Cherokee, Covington 26, 27, 29, 30, 40, 41, 42 and 43, Decoursey, Independence 1 and 2, Morningview, Nicholson, Oakridge, Piner, Richardson, Taylor Mill 1 and 2, Visalia, Whites Tower, Winston Park.

(65) Sixty-fifth District: That part of Kenton County containing the following voting precincts: Covington 12, 14, 15, 17, 18, 19, 20, 20A, 23, 24, 25, 31, 33, 34, 35, 36 and 39.

(66) Sixty-sixth District: That part of Kenton County containing the following voting precincts: Covington 6, 7, 10, 10A and 13, Bromley, Crescent Springs, Elsmere 1, 2 and 3, Erlanger 4, 5, 6, 8 and 9, Ludlow 1, 2, 3, 4 and 5, Villa Hills 1 and 2.

(67) Sixty-seventh District: That part of Campbell County containing all of the voting precincts in the city of Newport, the city of Wilder, the city of Southgate except voting precinct Southgate B; that part of Kenton County containing voting precincts Covington 1, 3.

(68) Sixty-eighth District: That part of Campbell County containing all the voting precincts in the city of Bellevue; all the voting precincts in the city of Dayton; voting precincts A, B, C, D, E, G, L and P in the city of Fort Thomas and the voting precincts of Woodlawn, Brent, Crestview, Silver Grove, Hayfield, Carthage, Camp Springs and Melbourne.

(69) Sixty-ninth District: That part of Campbell County not contained in the Sixty-seventh and Sixty-eighth Districts; that part of Pendleton County contained in the voting precincts of Bonar and Sandsuck.

(70) Seventieth District: Mason, *Fleming* and Robertson Counties; [that part of Fleming County not in the Seventy-fourth District;] that part of Rowan County contained in census enumeration district 3 bounded by Bath County line, Triplett Creek, Morehead city limits, Kentucky Highway 32, Fleming County line.

(71) Seventy-first District: Morgan and Menifee Counties; that part of Rowan County not contained in the Seventieth District; the Northern part of Wolfe County bounded by Kentucky Highway 15, Campton City limits, Kentucky Highway 746, Mountain Parkway Extension, Morgan County line, Menifee County line, Powell County line, including the city of Campton.

(72) Seventy-second District: Bourbon County and that part of Fayette County not contained in the Seventy-fifth District, the Seventy-sixth, Seventy-seventh, Seventy-eighth and Seventy-ninth Districts.

(73) Seventy-third District: Clark and Powell Counties.

(74) Seventy-fourth District: Bath, Nicholas and Montgomery Counties [, and that part of Fleming County contained in census enumeration district 9 bounded by county line, Three Mile Run, State Highway 1325 (Three Mile Road), Cane Road, State Highway 1123 (Peck's Ridge Road), State Highway 57, Craintown Road, and State Highway 32 westward to county line].

(75) Seventy-fifth District: That part of Fayette County contained within the following described boundaries: Beginning at the intersection of South Broadway and Mason Headley Road; then with the center line of South Broadway in a northeastwardly direction to the intersection of South Broadway and Virginia Avenue; then in a northwestwardly direction with the western boundary of the Kentucky Trotting Horse Breeders Association property (Red Mile) to the Versailles Pike across from the intersection of Forbes Road; then in a generally northwardly direction with the center line of Forbes Road to its intersection with the Old Frankfort Pike to its intersection with Leestown Pike (West Main Street); then in a southeastwardly direction with the center line of West Main Street to its intersection with Newtown Pike; then in a northwestwardly direction with the center line of Newtown Pike to its intersection with West Fourth Street; then in a southeastwardly direction with the center line of West Fourth Street to the Louisville and Nashville Railroad Company crossing; then in a northeastwardly direction with the center line of the right-of-way of the Louisville and Nashville Railroad Company to its crossing of the Russell Cave Pike (Ky 353); then in a generally southwardly direction along the center line of the Russell Cave Pike to Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southeastwardly direction with the center line of Maple Avenue to its intersection with East Seventh Street and in a southeastwardly direction along the center line of East Seventh Street to its intersection with Shropshire; then in a southwestwardly direction with the center line of Shropshire Avenue to East Sixth Street and in a northwestwardly direction with the center line of East Sixth Street to its intersection with Pemberton; then in a southwestwardly direction with the center line of Pemberton to its intersection with East Fifth Street; then in a southeastwardly direction with the center line of East Fifth Street to its intersection with Race Street and in a southwestwardly direction with the center line of Race Street to its intersection with East Third Street; then in a southeastwardly direction with the center line of East Third Street to its intersection with Walton Avenue; then in a southwestwardly direction with the center line of Walton Avenue to its intersection with East Main Street and in a northwestwardly direction with the center line of East Main Street to its intersection with Ransom Avenue; then in a southwestwardly direction with the center line of Ransom Avenue to its intersection with East High Street and in a generally southwardly direction with the center line of East

High Street to *the northwest property line of Cassidy school; then following the property line of Cassidy school back to the southwest boundary of East High Street; then with the center line of East High Street to its intersection with Cooper Drive; then westwardly along the center line of Cooper Drive where it meets the eastern property boundary of the University of Kentucky Experimental Farm; then south around the property line of the University of Kentucky Experimental Farm to the western boundary where it meets Iroquois; then northwestwardly to the intersection of Iroquois and South Limestone; then southwardly along the center line of South Limestone to the intersection of Southland Drive; then northwestwardly along the center line of Southland Drive to the intersection of Southland Drive and Southview Drive; then southwestwardly along Southview Drive to the intersection of Southview Drive and Hollyhill Drive; then westwardly along the rear property line of Hollyhill Drive to the intersection of Hollyhill Drive and Clays Mill Road; then northwardly along the center line to the intersection of Clays Mill Road and South Broadway and with the center line of South Broadway to the Mason Headley Road, to* [its intersection with Sunset, then in a northwestwardly direction with the center line of Sunset to Lafayette Avenue and continuing along the center line of Columbia (Sunset) to its intersection with Woodland Avenue and in a southwestwardly direction with the center line of Woodland Avenue to its intersection with Huguelet and in a northwestwardly direction along the center line of Huguelet to its intersection with Rose Street and in a southwestwardly direction with the center line of Rose Street to its intersection with South Limestone; then continuing in a southwestwardly direction along the center line of South Limestone to its intersection of Waller Avenue and then in a northwestwardly direction along the center line of Waller Avenue to its intersection with South Broadway and the Mason Headley Road,] the point of beginning.

(76) Seventy-sixth District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of East Third Street and Race Street; then in a southeastwardly direction along the center line of East Third Street to a point opposite the northwest property line of Richmond Avenue; then in a southwestwardly direction with said property line of Richmond Avenue to East Main Street and then in a southeastwardly direction along the center line of East Main Street to its intersection with Henry Clay Boulevard; then in a northeastwardly direction with the center line of Henry Clay Boulevard to its intersection with Menifee Avenue and in a southeastwardly direction with the center line of Menifee Avenue to a point in the southeast property line of Holiday Road; then with said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks; then in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road (Ky 4); then in a generally northwardly direction along the center line of the New Circle Road to its intersection with the Winchester Pike (US 60); then in a generally eastwardly direction with the center line of the Winchester Pike to its intersection with Interstate 64-75; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to its overpass on the Russell Cave Pike (Ky 353); then in a southwestwardly direction with the center line of Russell Cave Pike to its intersection with the New Circle Road; then in a southeastwardly direction with the center line of New Circle Road to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction with the center line of North Limestone to its intersection with Carlisle Avenue; then in a southeastwardly direction along the center line of Carlisle Avenue to its intersection of Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue; then in a southeastwardly direction with the center line of Louden Avenue to its intersection with Maple Avenue; then in a southwestwardly direction with the center line of Maple Avenue to East Seventh Street; then in a southeastwardly direction along the center line of East Seventh Street to Shropshire; then in a southwestwardly direction along the center line of Shropshire to East Sixth Street; then in a northwestwardly direction along the center line of East Sixth Street to Pemberton; then in a southwestwardly direction the center line of Pemberton to East Sixth Street; then in a southeastwardly direction with the center line of East Fifth Street to Race Street; then in a southwestwardly direction along the center line of Race Street to its intersection with East Third Street, the point of beginning.

(77) Seventy-seventh District: That part of Fayette County contained within the following boundaries: Beginning at the intersection of the Versailles Road (US 60) and the New Circle Road (Ky 4); then with the New Circle Road in a generally northeastwardly direction to the following intersections: Old Frankfort Pike, Leestown Pike, Georgetown Pike, Newtown Pike, Russell Cave Pike and North Broadway to its intersection with the Old Paris Pike (North Limestone); then in a southwestwardly direction along the center line of North Limestone to Carlisle Avenue; then in a southeastwardly direction with the center line of Carlisle Avenue to Bryan Avenue; then in a southwestwardly direction with the center line of Bryan Avenue to its intersection with Louden Avenue and in a northwestwardly direction with the center line of Louden Avenue to its intersection with Russell Cave Pike and in a generally northwardly direction with the center line of the Russell Cave Pike to the Louisville and Nashville Railroad crossing; then in a southwestwardly direction with the right-of-way with the Louisville and Nashville Railroad to West Fourth Street; then in a northwestwardly direction along the center line of West Fourth Street to the Newtown Pike and in a southwestwardly direction the center line of the Newtown Pike to West Main Street; then in a northwestwardly direction with West Main Street (Leestown Pike) to Forbes Road; then in a southwestwardly direction the center line of Forbes Road to the Versailles Road and across the Versailles Road and along the western property line of the Kentucky Trotting

Horse Breeders Association (Red Mile) to South Broadway and in a southwestwardly direction along the center line of South Broadway to Clays Mill Road and continuing in a southwestwardly direction along the center line of Clays Mill Road to Longview Drive; then in a northwestwardly direction along the center line of Longview Drive to the Harrodsburg Road; then in a northeastwardly direction along the center line of the Harrodsburg Road to the Lane Allen Road and in a northwestwardly direction along the center line of Lane Allen Road to Garden Springs Drive; then in a southwestwardly direction along the center line of Garden Springs Drive to Cypress Drive; then in a southeastwardly direction along Cypress Drive to Poppy Lane; then in a southwestwardly direction along a line extended from the end of Poppy Lane to the point opposite Aster Road and in a southeastwardly direction along a line extending from the end of Aster Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to the New Circle Road and in a northwestwardly direction along the center line of New Circle Road to a point opposite the center line of Lansill Road and in a northeastwardly direction along the center line of Lansill Road to a point on the Lane Allen Road; then continuing in a northeastwardly direction along the center line of Traveller Road to the northwest property line of Antietam Road; then in a generally northwardly direction along the line between the rear property lines of Traveller Road and Alexandria Drive to the Parkers Mill Road; then continuing in a generally northwardly direction along the center line of the Parkers Mill Road to Versailles Road; then in a westwardly direction along the center line of Versailles Road to the New Circle Road, the point of beginning.

(78) Seventy-eighth District: That part of Fayette County contained within the following boundaries: Beginning on Versailles Pike (US 60) at the Woodford County line; then eastwardly with the center line of the Versailles Pike to the intersection with the New Circle Road, then continuing along the Versailles Pike to Parkers Mill Road; then in a generally southwardly direction along the center line of Parkers Mill Road and continuing in a southerly direction along the rear property lines of Traveller Road and Alexandria Drive to the northwestwardly property line of Antietam Road and in a southwestwardly direction with said property line of Antietam Road to the center line of Traveller Road and with the center line of Traveller Road to the Lane Allen Road; then in a southwestwardly direction to the center line of Lansill Road, continuing along the center line of Lansill Road and on to New Circle Road and in a southeastwardly direction along the center line of the New Circle Road to the Harrodsburg Road and in a northeastwardly direction along the center line *of* [to] the Harrodsburg Road to a point opposite Aster Road and in a northwestwardly direction along a line to a point opposite Poppy Lane; then in a northeastwardly direction along a line to the end of Poppy Lane and continuing on the center line of Poppy Lane to Cypress Drive; then in a northwestwardly direction along the center line of Cypress Drive to Garden Springs Drive; then in a northeastwardly direction along the center line of Garden Springs Drive to Lane Allen Road; then in a southeastwardly direction along the center line of Lane Allen Road to the Harrodsburg Road and in a southwestwardly direction along the center line of the Harrodsburg Road to Longview Drive; then in a southeastwardly direction along the center line of Longview Drive to Clays Mill Road; then in a *southwestwardly direction along Clays Mill Road to the intersection of Hollyhill Drive; then along the rear property line in a southeastwardly direction to Southview Drive; then northeastwardly along the center line of Southview Drive to the intersection of Southland Drive; then southeastwardly along the center line of Southland Drive to the intersection of Southland Drive and South Limestone; then northeastwardly to the intersection of Iroquois and South Limestone; then eastwardly along Iroquois to the western property line of the University of Kentucky Experimental Farm and along the southern boundaries of the University of Kentucky Experimental Farm property to the eastern boundary of the University of Kentucky Experimental Farm property where it meets Cooper Drive; then along the center line in a southeastwardly direction to the intersection of Cooper Drive and East High Street (Tates Creek Pike)* [northeastwardly direction along the center line of Clays Mill Road to Harrodsburg Road continuing in a notheastwardly direction along the center line of the Harrodsburg Road to its intersection of Waller Avenue; then in a southeastwardly direction along the center line of Waller Avenue to South Limestone; then in a northeastwardly direction along the center line of North Limestone to Rose Street continuing in a northeastwardly direction along the center line of Rose Street to Huguelet, then in a southeastwardly direction along the center line of Huguelet to Woodland Avenue; then in a northeastwardly direction along the center line of Woodland Avenue to Columbia Avenue; then in a southeastwardly direction along the center line of Columbia Avenue to Lafayette Avenue and continuing along the center line of Sunset (Columbia Avenue) to the Tates Creek Pike]; then in a generally southerly direction along the center line of Tates Creek Pike to Lansdowne Drive; then in a southwestwardly direction along the center line of Lansdowne Drive to Zandale Drive; then in a northwestwardly direction along the center line of Zandale Drive to South Limestone (Nicholasville Pike); then in a southwestwardly direction along the center line of Nicholasville Pike to the Wilson-Downing Road; then in a southeastwardly direction along the center line of the Wilson-Downing Road to the Tates Creek Pike (Ky 1974); then in a generally southerly direction along the center line of the Tates Creek Pike to the Fayette County line; then along the Fayette County line in a generally northwestwardly direction to the Versailles Pike (US 60), the point of beginning.

(79) Seventy-ninth District: That part of the county of Fayette contained within the following boundaries: Beginning at the Kentucky River at the landing of Tates Creek Pike; then in a generally northwestwardly direction along the center line of the Tates Creek Pike to the Wilson-Downing Road; then

continuing in a northwestwardly direction along the center line of the Wilson-Downing Road to the Nicholasville Road and in a northeastwardly direction along the center line of the Nicholasville Road (South Limestone) to Zandale Drive; then in a southeastwardly direction along the center line of Zandale Drive to Lansdowne Drive; then in a northeastwardly direction along the center line of Lansdowne Drive to Tates Creek Pike; then in a generally northwardly direction along the center line of Tates Creek Pike (East High Street) to Ransom Avenue and in a northeastwardly direction along the center line of Ransom Avenue to East Main Street and in a southeastwardly direction along the center line of East Main Street to Walton Avenue, then in a northwestwardly direction along the center line of Walton Avenue to East Third Street; then in a southeastwardly direction along the center line of East Third Street to a point opposite the northwestern property line of Richmond Avenue; then in a southwestwardly direction along said property line of Richmond Avenue to East Main Street and in a southeastwardly direction with the center line of East Main Street to Henry Clay Boulevard and in a northeastwardly direction with the center line of Henry Clay Boulevard to Menifee Avenue and in a southeastwardly direction along the center line of Menifee Avenue to a point in the southeastern property line of Holiday Road; then in a northeastwardly direction along said property line of Holiday Road to the Chesapeake and Ohio Railroad tracks and in a southeastwardly direction with the right-of-way of the Chesapeake and Ohio Railroad to the New Circle Road; then in a generally northerly direction along the center line of the New Circle Road to the Winchester Pike (US 60) and in a generally eastwardly direction along the Winchester Pike to the Interstate 64-75 interchange; then in a northwestwardly direction with the right-of-way of Interstate 64-75 to the Bryan Station Pike (Ky 956) and in a northwestwardly direction along the center line of the Bryan Station Pike to the Muir Station Pike; then in a southeastwardly direction along center line of the Muir Station Pike to the Briar Hill Pike; then in a northeastwardly direction along the center line of the Briar Hill Pike to the Bourbon County line; then following the Fayette County line in a generally southerly direction to the Kentucky River and along the Kentucky River to the Tates Creek Pike, the point of beginning.

(80) Eightieth District: Lincoln and Rockcastle Counties and that part of Pulaski County contained within the following voting precincts: Eubank 25, Estesburg 26, Hazeldell 27, Good Hope 28 and Catron 31.

(81) Eighty-first District: That part of Madison County not contained in the Eighty-fourth District.

(82) Eighty-second District: Whitley County; that part of McCreary County contained within the county census division of Pine Knot bounded by: Blue Heron Road extended, Blue Heron Road, State Highway 742, U. S. Highway 27, Laurel Creek, Marsh Creek, Duck Run, county line, state line, South Fork Cumberland River; that part of McCreary County contained within the County Census Division of Cooperative bounded by: South Fork Cumberland River, state line, county line; that part of McCreary County contained within the county census division of Stearns bounded by: Lick Creek, Bridge Fork, Laurel Creek, U. S. Highway 27, State Highway 742, Blue Heron Road, Blue Heron Road extended, South Fork Cumberland River.

(83) Eighty-third District: That part of Pulaski County not contained in the Eightieth District.

(84) Eighty-fourth District: Estill and Jackson Counties and that part of Madison County contained in the city of Berea and in voting precincts 19 and 20.

(85) Eighty-fifth District: Laurel County and that part of McCreary County not contained in the Eighty-second District.

(86) Eighty-sixth District: Knox County; that part of Clay County contained in voting precincts 1, 8, 12, 13, 14, 15.

(87) Eighty-seventh District: Bell County and that part of Harlan County contained in voting precinct Pathfork 41.

(88) Eighty-eighth District: That part of Harlan County not contained in the Eighty-seventh and Ninetieth Districts.

(89) Eighty-ninth District: Breathitt and Lee Counties and that part of Wolfe County not contained in the Seventy-first District, and that part of Perry County contained in census county division of Big Creek, Blue Diamond Buckhorn, Yerkes-Busy and Krypton lying north and east of the following boundary: Leslie County line, Big Creek-Right Fork Divide, Buffalo Fork Big Creek-Buffalo Creek Divide, Brown's Fork-Buffalo Creek Divide, Messer Branch-Davidson Branch Divide, Happy Hollow, Hazard City limits, Walker Branch-North Fork Kentucky River Divide; Laurel Fork-Lost Creek-First Creek Divide, Sixteenmile Creek-Lower Second Creek Divide, Lost Creek, Grapevine Creek Divide, Tenmile Creek-Grapevine Creek Divide, Breathitt County line, Owsley County line, and Clay County line.

(90) Ninetieth District: Leslie and Owsley Counties, and that part of Harlan County contained in the voting precincts of Pine Mountain-Big Laurel No. 11, Bledsoe No. 12, New Baxter No. 9, Old Baxter No. 8, School House Loyall No. 35, City Hall Loyall No. 34, Rio Vista No. 36, and Putney No. 10, and that part of Clay County contained in voting precincts 2, 3, 4, 5, 6, 7, 9, 10, 11.

(91) Ninety-first District: That part of Perry County not contained in the Eighty-ninth district, and that part of Letcher County not contained in the Ninety-second District.

(92) Ninety-second District: Knott and Magoffin Counties; that part of Letcher County contained in census county division of Blackey, Colson, Fleming-Neon, and census enumeration districts 21 and 22, lying

northwest of the following boundary: Perry County line, Turkey Creek-Defeated Creek Divide, Whittaker Branch Road, Tolson Branch Road, Kentucky Highway 588, Mills Branch Road, Mills Branch Spur Road, Rockhouse Creek-Smoot Creek Divide, Kentucky Highway 15, Smoot Creek-Dry Fork Divide, Rockhouse Creek-North Fork Kentucky River Divide, Millstone Creek Road, Kentucky Highway 803, State Highway 113, North Fork Kentucky River, U. S. Highway 119, Seco city limits, U.S. Highway 119, Jenkins city limits, McRoberts city limits, Fleming city limits, and from Hemphill-Jackhorn P.O. due north to Pike County line, including the cities of Seco and Fleming.

(93) Ninety-third District: That part of Pike County contained in voting precincts Caney 20, Yeager 21, Old Shelby 22, Long Fork 23, Dorton 24 and Elmwood in district 2; Marrowbone 30, Rockhouse 31, Henry Clay 32, Hellier 33, Ashcamp 34 and Rasnick 35 in district 3; Millard 40, Lick Creek 42, Grapevine 43, and Garden Village 46 in district 4; Raccoon 51 in district 5; Peter 70, Blackberry 71, Knox 72, Freeburn-Cline 73, Wolford 74, Bluesprings 75, Majestic 76 in district 7; Mouthcard 80, Upper Elkhorn 81, Elkhorn City Hall 82, Belcher 83, Feds Creek 84, Looney 85 in district 8.

(94) Ninety-fourth District: That part of Pike County not contained in the Ninety-third District; that part of Floyd County not contained in the Ninety-fifth District.

(95) Ninety-fifth District: Floyd County except for the voting precincts Herold, Toler Creek, Antioch, Branhams Creek, Head of Mud, Tickey.

(96) Ninety-sixth District: Carter and Lewis Counties.

(97) Ninety-seventh District: Johnson and Martin Counties, and that part of Lawrence County contained in voting precincts 7, 9, 10, 11, 12, 13 and 14.

(98) Ninety-eighth District: That part of Greenup County not contained in the Ninety-ninth District.

(99) Ninety-ninth District: Elliott County; that part of Lawrence County contained in voting precincts 1, 2, 3, 4, 5, 6 and 8; that part of Boyd County containing the following voting precincts: Court House 1, City Building 2, Argo 3, Hampton 4, Rockdale 5, England Hill 7, Durbin 8, East Fork 9, Cannonsburg 10, Princess 11, Garner 12, Hoods Creek 13, Fairview 14, Buckley 15, Westwood 16, Millseat 17; that part of Greenup County contained in census enumeration district 10, known as Bellefonte City, bounded by county line, Country Club Drive (State Highway 693) to its junction with State Highway 1725, then southeasterly to the county line.

(100) One hundredth District: That part of Boyd County not contained in the Ninety-ninth District.

Section 2. KRS 6.041 is amended to read as follows:

Any reference in KRS 6.011 and 6.031 to a city, ward, district, boundary, precinct, road, highway, street, stream or other line means as they existed on January 4, 1972, *except that the following references to precincts in KRS 6.031 shall mean such precincts as they existed on January 1, 1978: In Trigg County, precincts Canton, West Cadiz, South Cadiz 1, South Cadiz 2, North Cadiz 1, North Cadiz 2, Wallonia, Cerulean, Bethesda, Maggie and Caledonia-Roaring Spring; in Jefferson County, precincts A35, A38, A50, A74, A80, A81, A123, A136 and A149 of A District of the county.*

Adjournment

Representative B. Richardson moved that the House adjourn until 2:00 p.m., Thursday, March 2, 1978.

On the roll call the vote was yeas 30-Arnold, Blythe, Boswell, Burnette, Clarke, Davenport, Dunn, Gay, Guy, Isler, Johnson, Jones, Kenton, Layman, List, Mann, May, Nett, Noe, Pearman, Plummer, Romines, Siemens, F. Smith, Stone, Van Horn, Weinberg, White, Wilborn, Worthington. Nays 5-Crupper, Gray, Imes, Priddy, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, MARCH 2, 1978

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend Raymond Ward, Rineyville Baptist Church, Rineyville, Kentucky.

The roll was called. All present except Representatives Guenthner, Imes, Maynard and McBee.

Representative Isler moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 1, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HCR 105, by Representative Kenton: A CONCURRENT RESOLUTION memorailizing the President of the United States to proclaim the innocenceof Doctor Samuel A. Mudd of any complicity in the assassination of President Abraham Lincoln.

HCR 106, by Representative Clarke: A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States for the purpose of requesting appropriate action by the Congress, either acting by concent of two-thirds of both Houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to require, with certain exceptions, that the total of all Federal appropriations may not exceed the total of all estimated Federal revenues in any fiscal year.

Senate Message

Announcing passage of **SB 3, SB 142, SB 237, SB 242, SB 257, SB 261, SB 264, SB 301, HB 5, HB 12** with Committee Amendment, **HB 39,** with Amendment, **HB 100** with Committee Substitute, **HB 101** with Committee Substitute, **HB 135, HB 173,** and **HB 281.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 760.**

Banking and Insurance: **SB 179, SB 259.**

Business Organizations and Professions: **HCR 103.**

Health and Welfare: **HB 762, SB 254, SB 316.**

Judiciary-Courts: **SB 288, SB 293.**

State Government: **HB 761, HCR 102, SB 305.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Courts: **SB 233, SB 156.**

State Government: **HB 541.**

Judiciary-Statutes: **HB 750, SB 276.**

Cities: **HB 727.**

Business Organizations and Professions: **SB 209, SB 88, HCR 103.**

Report of Committees

The Committee on Rules reported **HB 374, HB 168, HB 550, HB 264, HB 424, HB 9, HB 325, HB 372, HB 458, HB 491, HB 502, HB 506, HB 570, HB 599, HB 602, HB 609, HB 623, HB 628, HB 632, HB 642, HCR 56, SB 90, SB 94, SB 95, SB 225** have been posted for passage in Orders of the Day, March 3, 1978.

The Committee on Labor and Industry reported **HB 8** with the expression of opinion that the same should pass. Read at length fo the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Professional Strike Breaker" means an individual who consistently offers himself for employment in order to break a strike and who does not intend to become a full-time member of the permanent work force.

(2) "Strike" includes any strike or other stoppage of work by employes and any concentrated slowdown or other concentrated interruption of operations by employes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person, partnership, agency, firm or corporation, or officer or agent thereof:

(a) To recruit, procure, supply, or refer any person for employment in place of an employe involved in a strike in which such person, partnership, agency, firm, or corporation is not directly interested;

(b) If involved in a strike, to employ in place of an employe involved in such strike any professional strikebreaker, or to employ any person in place of an employe involved in a strike who is recruited, procured, supplied or referred for employment by any person, partnership, agency, firm or corporation not directly involved in the strike;

(c) If not directly involved in the strike to contract or arrange with any other person, partnership, agency, firm or corporation to recruit, procure, supply, or refer persons for employment in place of employes involved in such strike;

(d) To recruit, solicit, or advertise for employes, or refer persons to employment, in place of employes involved in a strike without notice to such person, or in such advertisement, that there is a strike at the place at which employment is offered and that the employment offered is in place of employes involved in such strike.

(2) It shall be unlawful for any professional strikebreaker to take or offer to take the place in employment of employes involved in a strike.

(3) This section shall not apply to the Kentucky or the United States Employment Service.

Section 3. KRS 340.050 is amended to read as follows:

(1) No employment agency shall knowingly send or direct an applicant for employment to any fictitious job or position, or knowingly make any false representation concerning any matter within the scope of the business of the employment agency. The nonexistence of such job or position or the falsity of any such representation shall be prima facie evidence of the violation of this section.

(2) No employment agency shall knowingly send an applicant for employment to any place where a strike or any labor trouble exists or is pending [without first notifying the applicant of that condition in writing]. Sending an applicant [uninformed] to such a locality shall constitute prima facie evidence of the violation of this section.

(3) No employment agency shall circulate any false or misleading information or make any false statement or misrepresentation to any person seeking employment or to any employer seeking an employe.

(4) No employment agency shall agree with any employer or his agent or employe to secure the discharge of an employe; nor shall an employer or anyone in his employ or representing it, give or receive any gratuity, divide, or offer to divide, or share directly or indirectly, any compensation received from an applicant for employment.

(5) No employment agency shall make any false entry or statement in any report to the department or in any record, receipt or other document used in the business.

(6) A sample copy of the contract forms used between the employment agency and applicant-employes shall be filed with the department. This must include the guarantee as set forth in subsection (2) of KRS 340.053. Each time a change is made in any such form or a new form drawn, the changed or new form shall be filed with the department before any copies are issued to applicant-employes.

(7) Every employment agency's office or place of business shall be maintained and conducted in an orderly, clean and sanitary manner.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any person, partnership, agency, firm or corporation violating subsections (1)(a), (b), (c) or (d) of Section 2 of this Act shall be fined not more than $1,000, or imprisoned in the penitentiary for a term of not more than five years, or both. Any person, partnership, agency, firm, or corporation, violating subsection (2) of Section 2 of this Act shall be fined not less than $25 or more than $100 or imprisoned for a term not exceeding six months, or both.

The Committee on Agriculture and Natural Resources reported **HB 384,** with Committee Amendment attached thereto, **HB 613, SB 149, SB 158, SB 185,** HJR 78, and **HJR 91** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar

HB 384, AN ACT relating to the environment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the department shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of Acts 1972 (1st Ex. Sess.), ch. 3, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of strip mining and reclamation in a manner to accomplish the purposes of KRS chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the department;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with Acts 1972 (1st Ex. Sess.), ch. 3, or any rule or regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the department. Such funds received by the department shall be deposited in the state treasury to the account of the department;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the department in the performance of its duties.

(14) Advise, consult, and cooperate with other agencies of the commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal with the recommendation of the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045.

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of Acts 1972 (1st Ex. Sess.), ch. 3, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the department may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the department may prescribe, permits to discharge into any waters of the commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or the establishment or construction and the operation or maintenance of solid waste disposal sites and facilities; and require that applications for such permits be accompanied by plans, specifications, and such other information as the department deems necessary;

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters of the commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the department may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters of the commonwealth and to provide any information concerning such monitoring to the department in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the department reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters of the commonwealth, and such other information as the department may require; [and]

(24) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described*; and*

(25) Set by regulation, maximum allowable increases over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards and to ensure that economic growth will occur in a manner consistent with preservation of existing clean air resources.

The Committee Amendment to **HB 384** is as follows:

Amend printed copy of **HB 384** on page 6, delete lines 4— 9, and substitute therefor the following: "*(25) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards.*"

HB 613, AN ACT relating to farming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. This Act shall be known as the Family Farm Act of 1978.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:
As used in this Act, unless the context otherwise requires, the term:
(1) "Agricultural land" means land used for farming;

(2) "Farming" means the cultivation of land for the production of agricultural crops; livestock or livestock products; poultry or poultry products; milk or dairy products; or fruit or other horticultural products. It shall not include the following:

(a) Production of timber or forest products;

(b) Contracts whereby a processor or distributor of farm products or supplies provides spraying, harvesting, or other farm services;

(c) Experimentation related to the production of pesticides, herbicides, or insecticides; and

(d) Production of seed stock.

(3) "Family farm" means an unincorporated farming unit owned by one or more persons residing on the farm or actively engaging in farming;

(4) "Family farm corporation" means a corporation founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by the majority of the stockholders who are members of a family related to each other within the third degree of kindred, and at least one of whose stockholders is a person residing on or actively operating the farm, and none of whose stockholders are corporations; provided, however, that a family farm corporation shall not cease to qualify as such hereunder by reason of any devise or bequest of shares of voting stock; and

(5) "Authorized farm corporation" means a corporation whose shareholders do not exceed ten in number, whose shareholders are all natural persons or estates, whose shares are all of one class, and whose revenues from rent, royalties, dividends, interest, and annuities do not exceed twenty percent of its gross receipts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS Chapter 271A, no domestic or foreign corporation shall engage in farming. Nor shall any corporation, directly or indirectly, own, acquire, or otherwise obtain an interest, whether legal, beneficial, or otherwise, in any title to real estate used for farming or capable of being used for farming.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The provision of Section 3 of this Act shall not apply to:

(1) Agricultural land and land capable of being used for farming which:

(a) Was owned by a corporation as of July 1, 1978, including the normal expansion of such ownership at a rate not to exceed twenty percent, measured in acres, in any five-year period; or

(b) Is leased by a corporation in an amount, measured in acres, not to exceed the acreage under lease to such corporation as of July 1, 1978 and the additional acreage required for normal expansion at a rate not to exceed twenty percent in any five-year period; and

(c) The additional acreage necessary to meet the requirements of pollution control regulations.

(2) A family farm corporation or an authorized farm corporation;

(3) Any national or state chartered bank or trust company authorized to conduct business in this state when operating a farm as a trustee or as an administrator or executor of an estate;

(4) A bona fide encumbrance taken for purposes of security;

(5) Agricultural lands acquired by a corporation by process of law in the collection of debts; or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, however, that all lands so acquired be disposed of within ten years after acquiring the title thereto; and further provided that the land so acquired shall not be used for farming during the ten-year period except under a lease to a family farm unit, a family farm corporation, or an authorized farm corporation. The ten-year limitation period shall be deemed a convenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation;

(6) Gifts of agricultural lands, either by grant or devise, to any nonprofit corporation;

(7) A state-supported farm operated for teaching, research, or experimental purposes; provided, however, that commercial sales from the farm shall be incidental to the teaching, research, or experimental objectives; and

(8) Agricultural land acquired by a corporation other than a family farm corporation or authorized farm corporation for immediate or potential use in nonfarming purposes. A corporation may hold such agricultural land in such acreage as may be necessary to its nonfarm business operation; provided, however, that pending the development of agricultural land for nonfarm purposes, such land may not be used for farming except under lease to a family farm unit, a family farm corporation, an authorized farm corporation, or except when controlled through ownership, options, leaseholds or other agreements by a corporation which has entered into an agreement with the federal government pursuant to the New Communities Act of 1968, Title IV of the Housing and Urban Development Act of 1968, 42 U.S.C.A. 3901-3914, as amended, or a subsidiary or assign of such a corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation engaged in farming or proposing to commence farming shall file with the secretary of state a report containing:

(1) The name of the corporation and its place of incorporation;

(2) The address of the registered office of the corporation in this state, the name and address of its registered agent in this state, and in the case of a foreign corporation, the address of its principal office in its place of incorporation;

(3) The acreage and location listed by county of each lot or parcel of land in this state owned or leased by the corporation and used for farming; and

(4) The names and addresses of the officers and the members of the board of directors of the corporation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The report of a corporation seeking to qualify hereunder as a family farm corporation or an authorized farm corporation shall contain, in addition:

(1) The number of shares owned by persons residing on the farm or actively engaged in farming, and their relatives within the third degree of kindred;

(2) The name, address and number of shares owned by each shareholder; and

(3) A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No corporation shall commence farming until the secretary of state has inspected the report required by Section 5 of this Act and certified that its proposed operations comply with the provisions of Section 5 and Section 6 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Every corporation, except as provided in subsection (2) of this section, engaged in farming shall, prior to April 15 of each year, file with the secretary of state a report containing the information required in Section 5 and Section 6 of this Act based upon its operations in the preceding calendar year and its status at the end of such year.

(2) A corporation certified by the secretary of state as a qualified family farm corporation or as a qualified authorized farm corporation shall report as required by Section 5 and Section 6 of this Act by April 15 of the fifth year following certification.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If the attorney general has reason to believe that a corporation is in violation of this Act, he shall commence an action in the circuit court in which any agricultural lands relative to such violation are situated, or if situated in two or more counties, in any county in which a substantial part of the lands are situated. If the court finds that the lands in question are being held in violation of this Act, it shall enter an order so declaring.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The attorney general shall file any order under Section 9 of this Act for record with the county court clerk of each county in which any portion of said lands are located. Thereafter, the corporation owning such land shall have a period of five years from the date of such order to divest itself of such lands. This five-year limitation period shall be deemed a covenant running with the title to the land against any corporate grantee, assignee, or the successor of such corporation. Any lands not so divested within the time prescribed shall be sold at public sale in the manner prescribed by order of the court.

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Every corporation which fails to file any report required under the provisions of this Act or wilfully files false information on any report required under the provisions of this Act shall be fined not more than $1,000.

SB 149, AN ACT relating to flood control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a community flood damage abatement program within the department for natural resources and environmental protection.

(2) It is hereby declared to be the purpose of the program to provide funds and technical assistance to local governments to initiate flood control projects and programs.

(3) This program shall be administered by the secretary according to standards designed to promote adequate planning, construction and conservation measures to deal with water drainage problems.

(4) Any local sponsoring community desiring to qualify for funding, must:

(a) make application to the department which shall be in the form and manner prescribed by the department;

(b) provide at no expense to the department, all lands and easements necessary for project construction;

(c) agree to operate and maintain the project in a manner acceptable to the Commonwealth to insure the continued capacity of the project to prevent or minimize flood damages.

(5) The department shall have and exercise the power and authority to annually inspect the completed project to insure compliance with any of the provisions of this section or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in subsection (4)(c) of this section.

SB 158, AN ACT relating to livestock and poultry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 257.120 is amended to read as follows:

[(1) The authorized agent of the board who acts as an appraiser may sell the entire carcass or any portion of the carcass, and the amount secured from the sale shall be paid to the owner. In addition, the owner shall receive one-third (1/3) of the difference between the appraised value of the carcass and its salvage value. Where it is not practicable to sell the carcass or any portion of the carcass, one-third (1/3) of the appraised value shall be paid by the state to the owner as an indemnity.]

(1) [(2)] Indemnities shall be paid by the state only for animals destroyed or slaughtered on account of foot and mouth disease, glanders, contagious pleuro-pneumonia, bovine tuberculosis, Bang's disease, or maladie du coit or dourine, or a disease for which the United States government or any department of it pays one-third (1/3) of the appraised value.

(2) Indemnity for Bang's reactors or exposed animals shall be paid in accordance with amounts specified by the state and federal cooperative agreement.

[(3) In no case shall the amount paid as indemnity exceed fifty dollars ($50.00) for any equine animal; fifty dollars ($50.00) for a registered bovine animal; and twenty-five dollars ($25.00) for a grade bovine animal. For animals with Bang's disease, the sum of the state and federal indemnities shall not exceed these amounts.]

(3) [(4)] No indemnity shall be paid for any animal unless it was the property of the person claiming indemnity, and was within the state, for a period of at least six (6) months prior to the time of *the first test* [appraisal], except when animals are destroyed or slaughtered on account of aphthous fever or foot and mouth disease, dourine, glanders or contagious pleuro-pneumonia.

(4) [(5)] No indemnity shall be paid for any animal:

(a) Owned by the United States, the state or any county or city;

(b) Brought into this state in violation of the law or any regulation of the board;

(c) When the owner at the time of coming into possession of the animal had any reason to believe that it was infected; or

(d) When the board or its authorized agents have satisfactory evidence that the owner has been guilty of negligence in permitting the animal to become exposed to the communicable disease.

(5) [(6)] In case of communicable diseases, if animals are destroyed by order of the United States government or a department of it, and an indemnity of one-third (1/3) the appraised value is being paid by the United States government, the state shall pay a like amount.

Section 2. KRS 257.490 is amended to read as follows:

The State Veterinarian shall have the power to designate certain employes of the Division of Livestock Sanitation as peace officers for the purpose of enforcing the provisions of *this chapter* [KRS 257.010 to KRS 257.470].

Section 3. KRS 257.990 is amended to read as follows:

(1) Any person who violates any regulation promulgated by the board under the provisions of this chapter, for the violation of which no other penalty is provided in this section, shall be fined not less than *one*

hundred [ten] dollars *($100)* [($10.00)] nor more than *five hundred* [fifty] dollars *($500)* [($50.00)] for the first offense; for each subsequent offense he shall be fined not less than *five* [one] hundred dollars *($500)* [($100)] nor more than *one thousand* [five hundred] dollars *($1,000)* [($500)], or be imprisoned not more than thirty (30) days, or both.

(2) Any person who violates KRS 257.040 shall be fined not less than *five hundred* [fifty] dollars *($500)* [($50.00)] nor more than *one thousand* [two hundred] dollars *($1,000)* [($200)].

(3) Any person who violates KRS 257.050 shall be fined not less than *two hundred* [fifty] dollars *($200)* [($50.00)] nor more than *five* [two] hundred dollars *($500)* [($200)] for the first offense; for each subsequent offense he shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000), and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.

(4) Any person who violates subsection (1) of KRS 257.060 shall be fined not less than *five* [two] hundred dollars *($500)* [($200)] nor more than one thousand *five hundred* dollars *($1,500)* [($1,000)] for the first offense; for each subsequent offense he shall be fined not less than *one thousand* [five hundred] dollars *($1,000)* [($500)] nor more than *two thousand* [fifteen hundred] dollars *($2,000)* [($1,500)], and shall be imprisoned for not less than sixty (60) days nor more than one hundred and twenty (120) days.

(5) Any person who violates subsection (2) of KRS 257.060 shall be fined not more than *one thousand* [five hundred] dollars *($1,000)* [($500)].

(6) Any person who violates any of the provisions of KRS 257.080, subsection (2) of KRS 257.160, or KRS 257.180 shall be fined not less than *one hundred* [ten] dollars *($100)* [($10.00)] nor more than *five hundred* [fifty] dollars *($500)* [($50.00)].

(7) Any person who fails to comply with subsection (1) of KRS 257.090 shall be civilly liable for all damages that occur by spreading the disease and shall be fined not less than *one hundred* [twenty] dollars *($100)* [($20.00)] nor more than *two* [one] hundred dollars *($200)* [($100)].

(8) Any person who fails to comply with paragraph (c) of subsection (2) of KRS 257.090 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(9) Any person who violates any ruling of the board or who hinders any agent of the board in carrying out the duties assigned to him, or any officer who refuses to enforce the provisions of this chapter when called upon by the board to do so, or any other person who in any way attempts to hinder or obstruct the board in carrying out the provisions of this chapter shall be fined not less than *two hundred* [twenty-five] dollars *($200)* [($25.00)] nor more than *five* [one] hundred dollars *($500)* [($100)] for each offense.

(10) Any person who violates any provision of KRS 257.330 to 257.350 or the regulations made thereunder for carrying out their provisions, or who fails or refuses to comply with or intends to deceive or who answers or represents falsely in response to any requirement of KRS 257.330 to 257.350, or who wilfully interferes with the livestock sanitary division of the department of agriculture, or state veterinarian, their employes or agents, in the carrying out of their duties provided in KRS 257.330 to 257.350, shall be guilty of a misdemeanor. Any person who shall violate any of the provisions of KRS 257.330 to 257.350 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed *five* [one] hundred dollars *($500)* [($100)].

(11) Any person, firm or corporation who shall violate any provision of KRS 257.370 to 257.460 or any rule or regulation made under authority thereof shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed *five* [one] hundred dollars *($500)* [($100)] for each offense.

(12) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with an officer under KRS 257.490 or who willfully refuses to obey his lawful orders shall be fined not more than *one thousand* [five hundred] dollars *($1,000)* [($500)] or imprisoned in the county jail not more than 30 days, or both.

(13) Any livestock dealer who violates any provision of KRS 257.530 shall be fined twenty-five dollars ($25) for the first offense and not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each succeeding offense.

SB 185, AN ACT relating to pest control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 217D IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Department" shall mean the Department for Natural Resources and Environmental Protection.

(2) "KPCA" shall mean Kentucky Pest Control Association, Inc.

(3) "Termite" shall mean the eastern subterranean termite, Reticulotermes flavipes (Kollar), the

southeastern subterranean termite, R. virginicus Banks, or the light southeastern subterranean termite, R. hageni Banks.

(4) "Old House Borer" shall mean the cerambycid beetle Hylotrupes bajalus (L.).

(5) "Powder Post Beetle" shall mean the beetles that damage wooden structures and are classified within the families Lyctidae, Bostrichidae or Anobiidae.

(6) "Carpenter Ants" shall mean those ants that damage wooden structures and are classified within the genus Camponotus.

(7) "Carpenter Bees" shall mean those bees that damage wooden structures and are classified in the genus Xylocopa.

(8) "General Pests" shall mean any arthropods, mollusks, annelid worms, rodents or other pestiferous vertebrate animals, vermin or fungi; excluding those defined in subsections (3), (4), (5), (6), and (7) of this section.

(9) "Fumigation" shall mean the use of poisonous gases for the control of pests in enclosed spaces including but not restricted to structures such as box cars, warehouses, ships, barges, homes, garages and granaries.

(10) "Wood Destroying Organisms" shall mean those organisms that cause damage to the wood used in the construction of commercial or residential establishments including the insects defined under subsections (3), (4), (5), (6) and (7) of this section.

(11) "Structural Pest Control" shall mean the control of termites or pests, including the identification of infestations or infections; the making of inspections, inspection reports, recommendations; offering advice regarding control methods or sanitation procedures relative to termites and general pests; estimates, or bids, whether oral or written, with respect to such infestations; issuing contracts or submitting bids for, advertising for or performing services designated to prevent, control, repel or eliminate such infestations by the use of pesticides, mechanical devices or structural modifications under whatever name known, for the purpose of preventing, controlling and repelling wood destroying organisms and general pests in household structures, commercial buildings, and other structures (including those in all stages of construction) or the contents thereof, and outside areas, including the treatment of railroad cars, trucks, ships and airplanes or any one or any combination thereof. Excluded under this definition are textiles manufacturers, cleaners or furriers who treat fabrics or furs in their place of business exclusively.

(12) "Applicant" shall mean any named natural person applying for an applicator license or a managers' license.

(13) "Applicator" shall mean the license holder for a structural pest control firm and shall be the designated natural person, within a firm, partnership, corporation, organization, association or any combination thereof, who manages or is in charge of a business of structural pest control including advertising, soliciting or performing any of the services covered under the provisions of this chapter.

(14) "Manager" shall hold a managers' license and be a designated natural person within a firm who may perform the functions of an applicator but must always work under the full time supervision of an applicator.

(15) "License" shall mean an instrument authorizing a person to act or engage in structural pest control operations as an applicator or manager. The license may be issued by the department, and signed by the secretary of the department upon certification of the applicant's qualification by the department and upon recommendation of the pest control advisory board.

(16) "Office" shall mean the point of headquarters or location of the principal operation of an applicator or a point or location from which branch offices or operations are supervised.

(17) "Branch Offices" shall mean any location other than the main or home office or point of headquarters of principal operation of a firm from which structural pest control activities are carried out. The maintenance of personnel and/or where pesticides are stored and mixed (other than in service vehicles) or a point from which sales are made or solicited, or service rendered shall constitute a branch office within the meaning of this chapter. Each branch office shall have a licensed manager.

(18) "Full-Time Supervision" shall mean the act or process whereby professional work or services are made by a competent person acting under the instructions and control of an applicator or manager who is responsible for the action of that person and who is available if and when needed even though such applicator or manager is not physically present at the time and place that professional work or services are performed.

(19) "Reserve Applicator License Holder" shall be that person within a designated structural pest control firm or structural fumigation firm who maintains a current applicator's license but is not the designated license holder for that firm. This license holder can become the designated license holder for said firm only in the event of the death, incapacitation or removal of the original license holder other than by bankruptcy or sale of the firm.

(20) "Board" means the pest control advisory board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

There shall be established under the supervision of the environmental quality commission an eight (8) member pest control advisory board which shall consist of the following members:

(1) President of KPCA or his designated representative from the KPCA board of directors.

(2) One (1) member of KPCA appointed by the governor from a list of persons in the pest control industry submitted by the KPCA, who shall be residents of the Commonwealth. This member shall serve a two (2) year term.

(3) The chairman of the University of Kentucky department of entomology or his designated representative.

(4) One (1) other member of the University of Kentucky department of entomology appointed by the chairman of the department of entomology.

(5) Two (2) members of the department appointed by the secretary of the department.

(6) One (1) member appointed from the consumer protection division of the Kentucky attorney general's office appointed by the attorney general of Kentucky as a non-voting legal advisor.

(7) One (1) consumer member appointed by the chairperson of the environmental quality commission. This member shall serve a two (2) year term.

(8) Whenever a vacancy occurs on the board, that vacancy shall be filled in the manner designated in this section.

(9) At the first meeting of the pest control advisory board, a chairman, a vice chairman and a secretary shall be elected for one (1) year. They shall serve at the pleasure of the board. The chairman or the vice chairman shall preside at all meetings and vote as any other member. The secretary of the board shall maintain accurate minutes of each meeting of the board.

(10) Five (5) members of the board shall constitute a quorum and any action or order of the board shall require the presence of a quorum and the approval of a simple majority of the members present.

(11) The board shall meet on the first Thursday of alternate months beginning with January at Frankfort or such other place in Kentucky as the chairman shall direct. If the first Thursday falls on a holiday, the meeting shall take place the following Thursday. The secretary of the board shall notify members of upcoming meetings ten (10) days prior to the meeting. However, four (4) members of the board may call a special meeting of the board on ten (10) days' notice to the other members.

(12) Members of the board shall serve without compensation; however, members who are not employes of the Commonwealth shall be entitled to reimbursement by the department for actual expenses incurred in carrying out the duties of the board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The pest control advisory board shall have the following powers and duties:

(1) To hold hearings on the denial, suspension and revocation of license pursuant to Section 10 of this Act; to hold hearings on the denial of an application for a license pursuant to Section 9 of this Act; and to make written recommendations for further action to the department.

(2) To review commercial structural pest control and commercial structural fumigation applicator license applications to ensure that the applicants meet state pest control licensing requirements and to make recommendations to the department.

(3) To review the state pest control licensing examinations.

(4) To assist the department in administering the licensing examinations for commercial structural pest control applicators and commercial structural fumigation applicators and to make recommendations to the department.

(5) To serve as a resource group to keep the department and the environmental quality commission informed of current technical advancements in the pest control industry.

(6) To recommend reasonable rules and regulations concerning the following matters:

(a) Standards of application and workmanship.

(b) Proper health and safety precautions.

(c) Requirements for standardized structural pest control contracts.

(d) Furnishing of reports and information necessary for the pest control advisory board to carry out the provisions of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

Every person shall secure a license from the department before engaging in structural pest control in Kentucky. Structural pest control is divided into the following categories and a separate examination and license is required to operate in each category.

(1)(a) Commercial structural pest control shall include all structural pest control including wood destroying organisms and general pests in and immediately adjacent to commercial, industrial and residential establishments.

(b) Any person holding only a termite or a general pest control license or a fumigation license on the effective date of this Act may continue to operate in that category. Such person may take the commercial structural pest control license examination without jeopardizing his current license. Should the license of said license holder lapse or be revoked for any reason such person in order to be licensed again shall be required to fulfill the requirements of this chapter.

(2) Commercial structural fumigation shall include applicators using poison gases for control of pests in enclosed spaces including but not restricted to structures such as box cars, warehouses, ships, barges, homes, garages and granaries.

(3) Any additional category the department shall designate on recommendation of the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Applicants for an applicator's license shall be required to:

(a) Be a legal resident of the United States.

(b) Be eighteen (18) years of age.

(c) Have at least two (2) years of verified experience employed with a licensed structural pest control applicator. Experience shall be verified by the license holder of the company from which the applicant has obtained his experience. A person with a bachelor's degree, a master's degree or a doctoral degree in entomology from an accredited college or university shall qualify with no experience. Educational background shall be verified with official transcripts from the institution or institutions granting the degree.

(2) Applicants for a manager's license shall be required to have one (1) year's experience as a service technician or as a salesperson for a licensed pest control company.

(3) No person convicted of fraud or misrepresentation may apply for an applicator's or manager's license.

SECTION 6. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Application for license shall be submitted on a form furnished by the department, and shall be filed no later than thirty (30) days in advance of the next examination date.

(2) The department shall notify the applicant within ten (10) days of the examination date whether or not he has passed the examination.

SECTION 7. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Applicator licensing examinations for commercial structural pest control and commercial structural fumigation shall be given the second Tuesday in May and the second Tuesday in November unless such date shall be a holiday. In such case the examination shall be given on the third Tuesday of that month. Manager licensing examinations shall be administered by the department as needed.

(2) An applicant shall be allowed to take two (2) consecutive licensing examinations but if the applicant has not passed the licensing examination after two (2) attempts he must then wait one (1) year and must complete and pass a training course approved by the department before reapplying to take the examination one more time. If the applicant does not pass the examination the third or subsequent time, he shall have to wait two (2) years and complete and pass an additional training course approved by the department before reapplying to take the examination.

(3) License testing fees shall be fifty dollars ($50) for each examination each time the examination is taken.

(4) Written examinations shall be given to all qualified applicants. No oral examinations shall be given.

(5) The commercial structural pest control examination shall consist of no less than two hundred sixty (260) written questions and no less than forty (40) identification specimens. The commercial structural fumigation examination shall consist of no less than eighty (80) written questions and no less than twenty (20) identification specimens. The manager's licensing examination shall consist of no less than ninety (90) written questions and no less than ten (10) identification specimens.

(6) The licensing examination shall be a timed examination. Five (5) hours shall be allowed for the commercial structural pest control examination and two (2) hours for the commercial structural fumigation examination. Timing for the manager's licensing examinations shall be set by regulation.

(7) The applicant must achieve a grade of at least 70% correct on the written questions and at least 70% correct on the identification to pass the licensing examination. The license applicant must take and pass the entire examination to become licensed.

(8) The commercial structural pest control and the commercial structural fumigation examination shall also serve as the examination necessary to fulfill federal commercial pesticide applicator certification requirements, including industrial, institutional, structural and health related pest control.

SECTION 8. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) There shall be only one (1) applicator license holder per company with one (1) or more reserve applicator license holders allowed for each company.

(2) A license issued by the department shall not be transferable or assignable. In the event of the death or incapacitation of a licensed operator, his heirs, representatives, other persons or legal entities, which may have an interest in the structural pest control business in which the deceased was the license-holder, shall be allowed a maximum of twelve (12) months from such death to obtain a qualified licensed applicator to operate or manage said business under the provisions of this chapter. A full-time certified applicator shall be employed by such business for the application and supervision of restricted use pesticides.

(3) If a pest control firm is sold, the purchaser must comply with all state laws and regulations. If the purchaser fails to comply he has ninety (90) days to dissolve the business. The seller must notify the buyer that the department regulates the pest control industry in Kentucky. The seller must notify the department that the business has been sold within ten (10) days after the sale. If the license holder for a pest control firm leaves or is terminated for reasons other than death or sale of the firm, the firm must notify the department of this change within ten (10) days and must acquire a license holder at the next testing period or must be granted an emergency license by the department for a period not to exceed the following scheduled examination. If the pest control firm fails to meet these requirements, they must dissolve the business within ninety (90) days. A full-time certified applicator shall be employed by such business for the application and supervision of restricted use pesticides.

(4) It shall be illegal to solicit business or advertise without a valid commercial structural pest control applicator's license or commercial structural fumigation applicator's license.

(5) Each applicator shall register annually and shall pay an annual fee of one hundred dollars ($100) for each place of business maintained in Kentucky. Every non-resident owner shall designate a resident agent upon whom service of notice of process may be made to enforce the provisions of this Chapter.

SECTION 9. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department shall after denying an application for a license, if petitioned by the applicant within ten (10) days of notification, schedule a hearing before the pest control advisory board and shall at least fifteen (15) days prior to the date set for the hearing notify the applicant and the pest control advisory board in writing of the exact reasons for denial and the date and place of the hearing. Such written notice shall be served by delivery personally to the applicant or by certified mail, return receipt requested, to his last known address. The hearing shall be at the time and place prescribed by the pest control advisory board.

(2) Within ten (10) days of the hearing the board shall make a written recommendation to the department regarding the licensing of the applicant.

SECTION 10. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) The department may suspend, revoke or modify the provision of any applicator or manager's license issued under this Act if it finds that the licensee has committed any of the acts set forth in Section 11 of this chapter.

(2) The licensee has ten (10) days upon receipt of notification of proposed suspension, revocation or modification of license to request a hearing before the pest control advisory board. After receiving a request for a hearing, the department shall at least fifteen (15) days prior to the date set for the hearing, notify the applicant and the pest control advisory board in writing of the charges and the date and place of the hearing. Such written notice shall be served by delivery personally to the licensee or by certified mail, return receipt requested, to his last known address. The hearing shall be at the time and place prescribed by the pest control advisory board.

(3) Within ten (10) days of the hearing the board shall make a written recommendation to the department regarding the suspension, revocation, or modification of the license.

(4) If a hearing is not requested as provided for in subsection (2) of this section, the department may suspend, revoke or modify the license once the ten (10) day hearing request filing period has passed.

SECTION 11. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The following acts are declared to be a violation of this chapter:

(1) Making any material representation for the purpose of defrauding the public, or using any method or material that is not reasonably suited for the purpose for which it was employed, by any license applicator, manager or his solicitor or agent.

(2) Failure of a licensed operator or manager to comply with any of the provisions of this chapter or any reasonable rule or regulation promulgated by the department.

(3) Failure to pay any final judgment rendered against any licensed operator or manager, his employe, solicitor or representative by reason of liabilities resulting from activities under this chapter.

(4) Failure to make the registration and pay the annual licensing fees as required by this chapter.

(5) Failure to attend training courses approved by the department on recommendation of the pest control advisory board as specified by the Kentucky state plan.

(6) The making of false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized.

(7) The making of a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.540 to 217.640.

(8) The application of known improper materials.

(9) Knowingly operating faulty or unsafe equipment.

(10) Knowingly operating in a faulty, careless or negligent manner.

(11) Failure to keep and maintain the records required by this chapter, or to make reports when and as required.

(12) The making of false or fraudulent records, invoices or reports.

(13) Engaging in the business of the application of a pesticide without having a licensed applicator or operator in direct supervision.

(14) Using fraud or misrepresentation in making an application for a license or renewal of a license.

(15) Failure to comply with any limitations or restrictions on or in a duly issued license, permit or certification.

(16) Aiding or abetting a licensed or an unlicensed person to evade the provisions of this chapter, combining or conspiring with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowing one's license to be used by an unlicensed person.

(17) The making of false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land.

(18) Impersonating any state, county or city inspector or official.

SECTION 12. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) No person shall knowingly discard or store any pesticide or pesticide containers in such a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any waterway in a way harmful to any wildlife herein.

(2) No person shall purchase, use or supervise the use of, a restricted use pesticide unless such person be certified in a classification which permits such purchase, use or supervision of use.

SECTION 13. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

A pest control company shall be required and responsible to use only trained personnel such that a new employe shall work under the full time supervision of a certified applicator for at least thirty (30) days and sales and service personnel shall receive a training course approved by the department on recommendation of the pest control advisory board.

SECTION 14. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

Each business establishment or business entity shall at all times have its vehicles, which are actively and regularly engaged in service work marked for easy identification with at least the letters "L.P.C.O." two (2) inches high, and the company name thereon, followed by the license number of the business establishment or business entity. Identification of vehicles may be permanent or removable; however, signs shall accompany the vehicle at all times for purpose of identification. Each licensed business establishment or business entity shall furnish each employe performing work or soliciting business an identification card to be secured from the department and said identification card shall be carried on his or her person at all times for the purpose of identification of the employe to the department or to the person or persons for whom such work is being performed. It is the responsibility of every business establishment or business entity issuing identification cards to collect any and all cards, or produce proof that a reasonable effort was made to collect same, from employes whose employment has terminated with that company. Identification cards collected in this manner shall be mailed to the department.

SECTION 15. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

The burden of responsibility shall rest upon the applicator for selection and use of proper chemicals, and also for the correct formulation and dosages used unless otherwise specified in the rules and regulations. However, the department or its agents shall have authority at reasonable times during regular business hours to examine and test any and all chemicals used or being used or bought, held or stored for the purpose of being used for wood destroying organisms or general pest prevention or control by any person having a license issued, whether then in use or not. The department or its agents shall have the authority to inspect equipment and all storage and disposal areas. The department or its agent shall have the authority at reasonable times during regular business hours to inspect and observe the manner in which a particular pesticide is applied to insure that such is being done properly.

SECTION 16. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:
Each license holder shall be required to notify the department of any change of address within ten (10) days after such change has been made.

SECTION 17. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:
All fees collected by the department from structural pest control operators for licensing and examinations shall be deposited in the state treasury to the credit of a revolving fund for the use of the department in enforcing the provisions of this chapter and for the expense of carrying out the duties and functions of the pest control advisory board.

SECTION 18. KRS 217B.180 is amended to read as follows:

(1) The provisions of this chapter relating to licenses and requirements for their issuance shall not apply to any farmer owner of ground equipment applying non-restricted use pesticides for himself or his farmer neighbors; Provided, that:

(a) He operates farm property and operates and maintains pesticide application equipment primarily for his own use;

(b) He applies the pesticides for his farmer neighbors without compensation other than trading of personal services;

(c) He is not regularly engaged in the business of applying pesticides for hire amounting to a principal or regular occupation and that he shall not publicly hold himself out as a pesticide applicator.

(2) The licensing provisions of this chapter shall not apply to any person using handpowered equipment, devices, or contrivances to apply non-restricted use pesticides to lawns, or to ornamental shrubs and trees not in excess of twelve (12) feet high, as an incidental part of his *activity* [business] of taking care of *his* household *lawn* [lawns] and *yard or those of his neighbors, on the condition* [yards for remuneration;] that such person shall not publicly hold himself out as being in the business of applying pesticides, *and shall not accept compensation other than the trading of personal services for such activity.*

(3) This chapter shall not apply to operators presently licensed and regulated under the provisions of KRS 249.250 to 249.340 *on the effective date of this Act*, except that if required by EPA regulations such persons may be issued, without additional fees or examination, an applicator's license to enable them to purchase and use restricted use pesticides pursuant to the requirements of the Federal Environmental Pesticide Control Act of 1972.

SECTION 19. A NEW SECTION OF KRS CHAPTER 217D IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any of the provisions of this chapter or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department's office of general counsel, or upon the secretary's request by the attorney general.

(2) It shall be the duty of the department's office of general counsel, or upon the secretary's request, of the attorney general to bring an action for the recovery of the penalties hereinabove provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

(3) Any person who shall willfully violate any of the provisions of this chapter or any determination or order of the department promulgated pursuant to those sections which has become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

Section 20. KRS 249.250, Definitions for KRS 249.250 to 249.340; 249.255, Examining Board—Members; 249.260, License—Examination—Nonresident's process agent—Fees; 249.262, Examination fees; 249.265, Advertisement by unlicensed operators prohibited; 249.270, Board may promulgate rules and regulations; 249.280, Notice and hearing on rules and regulations; 249.290, Right of entry upon property for inspection; 249.300, Revocation of license; 249.305, Suspension of license; 249.310, License not transferable—Re-registration in case of death or change of business status of owner; 249.317, Hearing on denial, suspension or revocation of license; 249.319, Conduct of hearings—Testimony— Disobedience; 249.321, Notice of funding—Statement—Appeal; 249.323, Procedure on appeal—Judgment—Appeal to Court of Appeals; 249.330, Exemptions from license requirements; 249.340, Disposition of license fees; 249.345, Limitation on prosecution under KRS 249.250 to 249.340 are repealed.

HJR 78, A JOINT RESOLUTION relating to weather and making an appropriation therefor.

WHEREAS, the eastern Kentucky flood of 1977 resulted in property damages exceeding $175,000,000; and

WHEREAS, many areas of the state are prone to flooding because of the earth's topography, height above sea level, or location; and

WHEREAS, Kentucky farmers need timely weather information to assist them in determining the most opportune time for planting, harvesting, and curing crops; and

WHEREAS, the National Weather Service is searching for additional means of disseminating weather information to rural areas; and

WHEREAS, county agents are located in every county in the state and have a close working relationship with persons who could provide a very basic weather collecting and weather and flood information disseminating system for those areas which desire to participate voluntarily; and

WHEREAS, the state's report on the April 1977 flood in southeastern Kentucky made the recommendation that the state should expand its flood warning system by increasing the number of rain gauges, especially in the mountains, and by improving the warning system;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the University of Kentucky, College of Agriculture, Cooperative Extension Service institute a voluntary system in those counties desiring to participate in a basic weather collecting and weather and flood information disseminating system.

Section 2. That there is hereby appropriated from the general fund of the state treasury the sum of $35,000 for the 1978-79 fiscal year and $5,000 for the 1979-80 fiscal year to the University of Kentucky for this purpose.

HJR 91, A JOINT RESOLUTION directing the study of Kentucky agricultural, commercial and industrial freight transportation needs.

WHEREAS, agricultural, commercial, and industrial development in Kentucky is severely constrained by transportation problems; and

WHEREAS, the needs for Kentucky products and resources, particularly in the areas of agriculture and energy, are increasing at a rapid pace; and

WHEREAS, transportation absorbs a large portion of the Commonwealth's annual expenditure; and

WHEREAS, transportation expenditure decisions are often made on the basis of less than adequate information;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the department of transportation and the Kentucky center for energy research jointly undertake a comprehensive study of the agricultural, commercial and industrial freight transportation needs in Kentucky identifying current problems and constraints and evaluating potential alternatives.

Section 2. That the secretary of the executive department for finance and administration shall cooperate with and assist in the conduct of such study, including the supplying of all relevant and pertinent information and reports as may be requested by the preparers of the study.

Section 3. The department of transportation and the Kentucky center for energy research jointly shall present their findings and recommendations, together with any proposed legislation, to the general assembly and the governor prior to July 1, 1979.

Section 4. There is hereby appropriated to the department of transportation and the Kentucky center for energy research jointly from the general fund in the state treasury the sum of $30,000 for fiscal year 1978-79 for the sole purpose of conducting the study directed by this resolution. Any unexpended balance remaining at the close of fiscal year 1978-79 shall continue into the 1979-80 fiscal year.

The Committee on Appropriations and Revenue reproted **HB 546** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 546, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 143.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Department" means "department of revenue."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth in this state.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing *and/or processing* coal in this state. *In instances where contracts, either oral or written, are entered into whereby persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest is the taxpayer.*

(6) "Gross value" is *synonymous with gross income from property as defined in section 613 (c) of the internal revenue code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense (whether or not by common carrier) incurred in transporting coal from the point of extraction from the ground to the plants in which processing is applied shall be considered as gross income from the property. Gross value is to be reported* [defined] as follows:

(a) For coal severed *and/or processed* and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For coal severed *and/or processed,* but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value is the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied by KRS 143.020, royalties, sales commissions, transportation expense (whether or not by common carrier) incurred in transporting coal from the point of extraction from the ground to the plants in which processing is applied, or any other expense with the exception of the actual transportation cost incurred in transporting the coal to the consumer.

(7) "Reporting period" means the period for which each taxpayer must compute his tax liability and remit the tax due to the department. The reporting period shall be monthly. However, the department may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading for shipment.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control exists if a contract or lease, either written or oral, is entered into whereby one party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's

length passive royalty interest. In the case of related parties, the department may apportion or allocate the receipts between or among such persons, organizations, or businesses if it determines that such apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter is synonymous with the economic interest ownership required by internal revenue code section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

Section 2. KRS 143.020 is amended to read as follows:

For the privilege of severing or processing coal, in addition to all other taxes imposed by law, a tax is hereby levied on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of four and one-fourth percent (4.25%) of the gross value of all coal severed and/or processed during the reporting period; except that the minimum tax for a reporting period shall be an amount determined by applying a rate of fifty cents (50¢) per ton to the total number of tons severed during the reporting period. The minimum tax shall not apply to a taxpayer who only processes coal [On and after July 1, 1976, in addition to all other taxes imposed by law, a severance tax is hereby levied on every taxpayer measured by the coal severed. The tax shall be four and one-half percent (4 1/2 %) of the gross value of all coal severed during the reporting period; except that the minimum severance tax liability for a reporting period shall be an amount determined by applying a rate of fifty cents (50¢) per ton to the total number of tons severed during the reporting period].

Section 3. KRS 143.030 is amended to read as follows:

(1) *Every individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal shall, prior to July 1, 1978, or prior to severing and/or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the department may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application* [Prior to April 1, 1972, or prior to beginning coal severing operations in this state, each taxpayer shall file with the department an identification statement listing such information as the department may require].

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed *and/or processed*, the taxpayer severing *and/or processing* such coal shall file with the department a tax return in such form as the department may require and remit the amount of the tax due. A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the department relating thereto, the department may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing and/or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

Section 4. KRS 143.060 is amended to read as follows:

(1) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed within four years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.

(2) For the purpose of *subsections* [subsection] (1) *and (4)*, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) Any final ruling, order or determination of the department with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and 131.310 to 131.370.

(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the taxpayer understates the gross value by twenty-five percent (25%) or more, the excess shall be assessed by the department within six (6) years from the date the return was filed.

Section 5. KRS 143.090 is amended to read as follows:

The department of transportation shall certify to the commissioner of the department of revenue by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky turnpike authority for resource recovery road projects. Upon receiving such certification, the commissioner of the department of revenue shall cause said amount to be deposited from [severance tax] proceeds *of the tax levied by KRS 143.020* to the credit of the transportation fund (road fund). All [severance] tax *levied by KRS 143.020* collected in excess of the amount required to be deposited to the transportation fund (road fund) shall be deposited by the department of revenue to the credit of the general fund.

SECTION 6. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO READ AS FOLLOWS:
Notwithstanding any other provisions of this chapter to the contrary, where the department finds that it would facilitate and expedite the collection of the tax imposed by this chapter, the department may authorize the taxpayer processing the coal to report and pay the tax which would be due from the taxpayer severing the coal. Authorization from the department shall be in the form of an agreement executed by the taxpayer processing the coal, the taxpayer severing the coal and the department. The agreement shall be in such form as the department may prescribe. The agreement must be signed by the owners if the taxpayers are natural persons; in the case of a partnership or association by a partner or member; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application. The director of the sales and severance tax division shall sign for the department. The agreement may be terminated by any party to the agreement upon giving thirty (30) days written notice to the other parties to the agreement; however, the department may terminate the agreement immediately upon written notice to the other parties when either the taxpayer processing the coal or the taxpayer severing the coal fails to comply with the terms of the agreement.

Section 7. The provisions of this Act shall become effective July 1, 1978.

Section 8. In the event that that section of this Act which imposes a tax on the processing of coal is declared unconstitutional, then that portion of the Act reducing the tax rate to four and one-fourth percent (4.25%) shall be null and void.

The Committee on Cities reproted **HB 495,** with Committee Amendment attached thereto, **HB 665, HB 693, HB 710,** and **SB 249** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 495, AN ACT relating to annexation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:
The legislative body of any city may extend or reduce the corporate limits of the city under the procedures set forth in Sections 1 through 15, provided that if all the owners of real property in the territory to be annexed or severed consent in writing, the city may dispense with the requirements of Sections 2 and 5.

SECTION 2. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:
A city exercising authority under Section 1 shall make plans for the extension of services to the area proposed to be annexed and shall, prior to the public hearing provided for in Section 5, prepare a report setting forth such plans. The report shall include:

(1) A map or maps of the city and adjacent territory to show the following information:

(a) The present and proposed boundaries of the city;

(b) The present streets, major trunk water mains, sewer interceptors and outfalls as well as other utility lines, and the proposed extension of such streets and utility lines as required in subsection (3)(c) of this section;

(c) The present areas receiving, or able to receive, major city services, and the proposed extension of such services to other areas; and

(d) The prevailing general land use patterns existing in the area to be annexed.

(2) A statement showing that the area to be annexed meets the requirements of Section 3.

(3) A statement setting forth the plans of the city for extending to the area to be annexed each major city service owned by the city or subsidized through city tax revenues and performed within the city at the time of annexation. Specifically,such plans shall:

(a) Provide for extending police and fire protection, garbage collection, and street maintenance services to the area to be annexed on the date of annexation, on substantially the same manner as such services are provided within the boundaries of the city prior to annexation;

(b) Provide for extension, into the area to be annexed, of streets and of major trunk water mains, sewer outfall lines, and lines for such utility services as the city provides to existing city residents and legally may provide in the annexed area so that when such streets and utility lines are constructed, property owners in the area to be annexed will be able to secure the services, according to the policies in effect in the city for extending the services to individual lots or subdivisions; and shall name the government proposed to be responsible under the plans for any streets or roads which abut or form a boundary of the area to be annexed;

(c) Set forth a proposed timetable for the extension of, and if necessary, the construction for each major city services;

(d) Set forth a projected estimation of tax rates pursuant to Section 7 to be levied by the city upon the area to be annexed and affected residents of that area for each year until such time that all major city services have been provided; and

(e) Set forth the method under which the city plans to finance extension of services into the area to be annexed.

SECTION 3. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) A city legislative body may extend the city's corporate limits to include any area:

(a) Which is adjacent or contiguous to the city's boundaries at the time the annexation proceeding is begun; and

(b) Which by reason of population density, commercial, industrial, instituional or governmental use of land, or subdivision of land, is urban in character or suitable for development for urban purposes without unreasonable delay.

(2) No part of the area to be annexed shall be included within the boundary of another incorporated city, except as provided in Section 12, but may be included within the boundary of another county.

(3) If a city is considering the annexation of two (2) or more areas which are all adjacent to the city boundary but are not adjacent to one another, it may undertake simultaneous proceedings under authority of Section 1 for the annexation of such areas.

SECTION 4. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Any city legislative body desiring to annex territory shall first pass an ordinance stating the intent of the city to consider annexation. The ordinance shall also specify the following:

(a) A summary of the report which is required by Section 2;

(b) A statement setting forth its finding that the area meets the standards of Section 3;

(c) The date, time and place for a public hearing on the question of annexation, the date to be not less than thirty (30) days nor more than sixty (60) days following the passage of the ordinance; and

(d) A statement that the report required in Section 2 will be available for inspection at least thirty (30) days prior to the date of the public hearing and where it will be available.

(2) The ordinance shall be published in accordance with KRS Chapter 424.

SECTION 5. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) At least one (1) public hearing shall be held on the proposed annexation after the passage of an ordinance pursuant to Section 4. Additional hearings are permissible.

(2) Any hearing held pursuant to this section shall provide an opportunity to be heard to all persons residing or owning property in the area described in the notice of the public hearing, and to all residents of the city.

(3) At the public hearing, or the initial public hearing if more than one (1) is to be held, a representative of the city shall first make an explanation of the report required in Section 2. Such explanation shall be as detailed as necessary so as to convey an accurate and definitive report.

(4) The city legislative body shall take into consideration facts presented at the public hearing and shall have authority to amend the report required by Section 2 and to make changes in the plans for serving the area proposed to be annexed so long as such changes meet the requirements of Section 3. If any amendment or change is approved by the city legislative body, another hearing shall be held to provide any person residing or owning property in the area to be annexed or any resident of the city an opportunity to be heard on the amendment or amendments. Such hearing shall be held not later than thirty (30) days after the city legislative body approves the amendment or amendments. Notice of such hearing shall be published in accordance with KRS Chapter 424.

SECTION 6. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) At any meeting of the city legislative body which occurs not sooner than thirty (30) days nor later than sixty (60) days following the last public hearing, the city legislative body may adopt an ordinance extending the corporate limits of the city to include all, or part, of the area described in the notice of the public hearing or, if there has been any amendment to such description, that described in the amendment. The

area described shall meet the requirements of Section 3. The ordinance shall:

(a) Contain a statement of the intent of the city to provide services to the area being annexed as set forth in the report required by Section 2;

(b) Contain specific findings showing that the area to be annexed meets the requirements of Section 3. The external boundaries of the area to be annexed shall be described by metes and bounds. The city legislative body may also refer to the boundaries set forth on a map of the area and incorporate the same by reference as a part of the ordinance;

(c) Contain a specific finding that on the effective date of annexation the city will have the means to provide by assessment, appropriation or otherwise for the services as specified in Section 2;

(d) Contain a statement specifying the city tax rates that will be levied for the next tax year upon the affected residents and property which is to be annexed; and

(e) Fix the effective date of annexation. The effective date of annexation may be fixed for any date within twelve (12) months from the date of passage of the ordinance except within the first thirty (30) days.

(2) From and after the effective date of the annexation ordinance, the territory in the affected area and its residents and property shall be subject to all laws, ordinances and regulations in force in such city and shall be entitled to the same privileges and benefits as other parts of such city.

SECTION 7. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) A city shall tax property within the annexed area only in such amount as is commensurate with city services or facilities actually made available to the residents or property of the affected area.

(2) If services available from the city have been provided prior to annexation from another source in the annexed area, the city shall not tax for such services unless they are actually provided by the city as a lawful replacement for existing services.

SECTION 8. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Not earlier than thirty (30) days nor later than twenty-four (24) months from the date a particular service was scheduled to be provided by the city in its service plan, any person owning real property in the annexed area who believes that the city has not complied with its service plan in regard to that service as required by Section 2, may apply for a mandatory injunction in the proper circuit court. Relief may be granted by the circuit court.

(a) If the city has not provided the service set forth in its plan submitted pursuant to Section 2 on substantially the same basis and in the same manner as such service is provided within the previous boundaries of the city when extension of such service does not necessitate construction; or

(b) If the city has not made a good faith attempt within a reasonable time to initiate the construction necessary to provide the planned major city service to the annexed area.

(2) If the city fails to take action in accordance with the injunction within a reasonable time, in no event not later than sixty (60) days, the annexation proceeding shall be deemed null and void from the date judgment declaring noncompliance with the mandatory injunction is entered. The court shall cause to be delivered a certified copy of the judgment to the county clerk and the secretary of state for supplementation of the records filed pursuant to Section 14.

SECTION 9. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Within thirty (30) days following the publication of an annexation ordinance under authority of Section 6, any person owning real property in the annexed area may petition the circuit court for relief.

(2) The petition shall explicitly state what exceptions are to be taken to the action of the city legislative body and what relief the petitioner seeks. The city shall be made defendant.

(3) Within twenty (20) days after receipt of the copy of the petition for review, or within such additional time as the circuit court may allow, the city shall transmit to the reviewing circuit court the following:

(a) A transcript of the portions of the city journal or minute book in which the procedure for annexation has been set forth; and

(b) A copy of the report setting forth the plans for extending services to the annexed area as required in Section 2.

(4) If two (2) or more petitions for review are submitted to the circuit court, the circuit court may consolidate all such petitions for review at a single hearing, and the city shall be required to submit only one (1) set of minutes and one (1) report as required in subsection (3) of this section.

(5) At any time before or during the review proceeding any petitioner or petitioners may apply to the reviewing circuit court for an order staying the operation of the annexation ordinance pending the outcome of the review. The circuit court may grant or deny the stay in its discretion upon such terms as it deems proper, and it may permit annexation of any part of the area described in the ordinance concerning which no question for review has been raised.

SECTION 10. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) The circuit court shall fix the date for review of annexation proceedings under Section 9, which review date shall preferably be within thirty (30) days following the last day for receiving petitions to the end that review shall be expeditious and without unnecessary delays. The review shall be conducted by the court without a jury. If in issue, the court shall determine compliance with:

(a) Statutory procedures; and

(b) Section 3.

If the court makes an affirmative determination on (a) and (b) above it shall affirm the annexation subject to further determination under Section 11, if applicable.

(2) If the court determines (a) or (b) of subsection (1) in the negative it shall deny the annexation unless the court finds that the deficiency may be remedied on remand as hereinafter provided in this subsection, subject to further determination under Section 11, if applicable, after the directed remedial action has been taken. In that case the court may:

(a) Remand the ordinance to the city legislative body for further proceedings if procedural irregularities are found to have materially prejudiced the substantive rights of any of the petitioners;

(b) Remand the ordinance to the city legislative body for amendment to the boundaries to conform to the provisions of Section 3 if the court finds that the provisions of Section 3 have not been met, but the court cannot remand the ordinance to the city legislative body with directions to add area to the city which was not included in the notice of the public hearing and not provided for in plans for service; or

(c) Remand the report to the city legislative body for amendment of plans for providing services to comply with Section 2.

If the city fails to take action in accordance with the circuit court's instructions upon remand, within sixty (60) days after receipts of such instructions, the annexation proceeding shall be deemed null and void from the date of entry of the judgment. If the city undertakes to comply with such instructions, it shall promptly so certify to the court, whereupon any further proceedings necessary under this section including further remand, shall be conducted, subject to further determination under Section 11, if applicable.

SECTION 11. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

If the petition for review (or the petitions collectively) under Section 9 is accompanied by statements of remonstrance signed by seventy-five percent (75%) or more of the owners of real property in the area to be annexed, and if the annexation otherwise is approved under Section 10, the court shall hear evidence relating to the needs and interests of the community as a whole with respect to urban government, and the nature, extent and fiscal aspects of urban governmental services needed in the area to be annexed, and shall find in favor of annexation unless the court finds that:

(1) The area to be annexed is not currently receiving any substantial urban governmental services by or through facilities of the annexing city and the area has readily available from other sources urban governmental services fully adequate for all the current and immediately forseeable needs of the area; or

(2) The needs and interests of the community as a whole or any significant part of it with respect to government in urban territory would be materially impaired by the annexation.

SECTION 12. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) Whenever a city desires to annex all or any part of a city of a smaller class, the legislative body of the city shall pass an ordinance designating the city proposed to be annexed, or defining accurately the part proposed to be annexed, declaring it to be desirable to annex the city or part, and providing that the question of whether or not the city or part shall be annexed shall be submitted to the qualified voters of the city to be annexed, or, if only part of the city is proposed to be annexed, to the qualified voters residing in that part, at the next regular election to be held therein, if the next regular election is not held within sixty (60) days after the passage of the ordinance.

(2) The mayor of the city shall deliver a certified copy of the ordinance to the county clerk, who shall, if it is proposed to annex the whole city, have printed on the ballots provided for use in the city proposed to be annexed, the question: "Are you in favor of being annexed to the City of ...."? Opposite the question shall be printed "Yes" and "No" with squares for stamping the cross mark to indicate preference. If it is proposed to annex only a part of the city, the clerk shall have the question printed on the ballots provided for use in each precinct embraced in whole or in part within that part of the city proposed to be annexed. If only a part of any precinct is embraced within that part of the city proposed to be annexed the clerk of the election shall mark an "X" with the black ink stencil in the squares opposite both the words "Yes" and "No" upon the ballots of all persons voting who reside in the precinct but not in that part of it proposed to be annexed, before he delivers the ballots to those voters. The clerk shall cause the sheriff to deliver to the election officers in each precinct copies of the ordinance proposing to annex.

(3) If one-half (1/2) or more of those voting on the proposition vote in favor of annexing, the city proposing to annex shall pass an ordinance declaring the smaller city or part annexed, and the smaller city or

part shall then become a part of the annexing city.

(4) If less than one-half (1/2) of those voting on the proposition vote in favor of annexing, the ordinance proposing annexation shall become ineffectual for any purpose.

(5) A city annexing the territory of a smaller city shall be bound for all the debts and liabilities of that city and shall be the owner of all its corporate property, franchises and rights. If only a portion of the territory of any city is annexed, the amount of the existing debts and liabilities for which the annexing city is bound shall be in the proportion as the value of the property of the city from which the territory is taken, as shown by the last preceding assessment for that city.

SECTION 13. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

(1) A city may reduce its boundaries by ordinance in accordance with this section.

(2) Area may be excluded from a city by a reduction of boundaries only if:

(a) The area does not need urban governmental services, or it can better obtain those services from another source;

(b) The reduction will not result in a substantial economic waste of the city's facilities in the area; and

(c) The retention of the area is not essential to the continued prosperity of the city or the reduction would best serve the needs and interests of the community as a whole with respect to government in urban territory.

(3) Within thirty (30) days following the publication of a reduction ordinance any owner of real property in the city, whether or not in the area to be excluded, may seek judicial review of the reduction in the circuit court by action in which the city shall be made defendant. The effective date of the reduction shall be stayed pending the action. The judicial review shall be confined to a determination of whether the requisites of subsection (2) of this section have been met and the ordinance was passed by proper procedure.

SECTION 14. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Whenever the limits of a city are enlarged or reduced, the city shall cause an accurate map of the annexed or severed area with a metes and bounds description, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located and in the office of the secretary of state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 81 IS CREATED TO READ AS FOLLOWS:

Any party to judicial review proceedings under Sections 9 to 14, including the city, may appeal from the final judgment of the circuit court under the rules of procedure applicable in other civil cases. The appealing party may apply to the circuit court for a stay of its final determination, or a stay of the annexation or reduction ordinance, whichever shall be appropriate, pending the outcome of the appeal; provided, that the circuit court may, with the agreement of the city, permit annexation or reduction to be effective with respect to any part of the area concerning which no appeal is being made and which can be incorporated into or severed from the city without regard to any part of the area concerning which an appeal is being made.

Section 16. The following statutes are repealed:

81.100 Annexation of unincorporated territory or reduction of territory by first-class city.
81.110 Protest against annexation of unincorporated territory or reduction of territory by first-class city — Trial — Judgment.
81.120 Annexation of another city by a first-class city.
81.130 First-class city takes over rights and liabilities of city annexed.
81.140 Annexation of unincorporated territory or reduction of territory by second-class city.
81.150 Annexation of fifth or sixth-class city by second-class city.
81.160 Annexation of second, third or fourth-class city by second-class city.
81.170 Second-class city takes over rights and liabilities of territory annexed.
81.180 Second-class city to divide annexed territory into wards — Right of electors in annexed territory.
81.190 Annexation or reduction of territory by third-class city.
81.200 Third-class city takes over rights and obligations of city annexed.
81.210 Annexation or reduction of territory by fourth-class city.
81.220 Protest against annexation by fourth-class city — Trial — Judgment.
81.230 Annexation or reduction of territory by fifth-class city.
81.235 Acquisition of lands by city of fifth class for relocation — When — Expenditures for such purpose.
81.240 Annexation or reduction of territory by sixth-class city.
81.250 Fifth or sixth-class city takes over rights and liabilities of city annexed.
81.260 Liability of property owners in territory annexed to sixth-class city for debts of city incurred before annexation.

81.270 Resubmission of proposal for annexation or reduction by city of any class when first proposal is denied by court or defeated by voters.
81.275 Annexation of property of consenting landowners pending litigation.
81.280 Annexation of unincorporated territory in which industrial plants are located — Public policy stated — Prerequisites — Protest and hearing.
81.290 Copy of ordinance proposing annexation or reduction of territory by city in county containing a city of first class to be forwarded to fiscal court — Protest suit, fiscal court to be made a party.
81.295 Annexation of impoundments of water by cities of the fifth class.
81.296 Publication of ordinance.

The Committee Amendment to **HB 495** is as follows:

Amend printed copy of **HB 495** on page 19, lines 13, 14, 15 by deleting said lines in their entirety.

HB 665, AN ACT changing the classification of the City of Northfield, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Northfield, in Jefferson County, is such as to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Northfield, in Jefferson County, is transferred from the sixth to the fifth class of cities.

HB 693, AN ACT changing the classification of Bromley, in Kenton County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Bromley, in Kenton County, is such to justify its being classified as a city of the fifth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

The City of Bromley, in Kenton County, is transferred from the sixth class to the fifth class of cities.

HB 710, AN ACT relating to annexation or reduction of territory by a city of the third class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 81.190 is amended to read as follows:

Any city of the third class may annex any territory to the city or reduce the boundaries of the city, in the same manner and under the same procedure as is provided in KRS 81.100 and 81.110 for annexation of unincorporated territory or reduction of boundaries by cities of the first class, with the following exceptions:

(1) *Any city of the third class may annex any contiguous unincorporated territory in the county where the seat of government is located or in any other county that is contiguous to the city.*

(2) If the mayor is absent, the summons issued on the petition filed in circuit court shall be served on the members of the city legislative body.

(3) [(2)] The proceedings in the circuit court shall be tried according to the practice prescribed for the trial of equity cases, without the intervention of a jury.

(4) [(3)] There shall be no appeal from the judgment of the circuit court.

SB 249, AN ACT changing the classification of the City of Columbia, in Adair County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Columbia, in Adair County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Columbia, in Adair County, is transferred from the fifth class to the fourth class of cities.

The Committee on Elections and Constitutional Amendments reported **HB 420, HB 684, HB 752, HCR 73, SB 98,** and **SB 245** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 420, AN ACT relating to corrupt practices.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received from any source since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50.00) and the amount, date and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate, the name of the contributor and the sum shall be indicated on the committee report.

(2) Each campaign treasurer of a candidate or campaign committee shall make a full report, upon a prescribed form, to the registry, of all money, loans or other things of value, received by him from any source, since the date of the last report, including the name, address, and occupation of each person or group contributing in excess of one hundred dollars ($100), the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50.00), and the amount, date and purpose of each expenditure.

(a) *In the absence of any excusable neglect, all reports of campaign treasurers concerning* [Reports of all] candidates and their campaign committee shall be made:

1. On the thirty-second day preceding an election, including all previous contributions and expenditures.
2. On the twelfth day preceding the date of the election.
3. Within thirty (30) days after the election.
4. *Campaign treasurers* [Candidates] shall have five (5) days from each filing deadline in which to get their reports into the hands of the registry.

(3) In making the preceding reports, proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies and similar fund raising events, mass collections made at such events, and sales of items such as campaign pins, buttons, hats, ties, literature and similar materials, the total gross receipts from each category shall be listed. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address and occupation and the amount purchased shall be reported to the registry. When the net proceeds of a fund raising event exceed the sum of $1,500, such sales shall be reported to the registry by name, address and occupation of the purchaser and the amount purchased. Such lists shall be maintained by the campaign treasurer or other sponsor for inspection by the registry for four (4) years following the date of the election.

(4) If the final statement shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement, and every sixty (60) days after the deadline for filing the first supplemental statement, an additional supplemental statement of contributions and expenditures. Subsequent supplemental statements shall be filed quarterly thereafter until the account shows an unexpended balance, continuing debts and obligations, expenditures, or deficit. [A candidate does not have to file] Supplemental reports *need not be filed* if the debt is the candidate's personal note.

(5) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate or committee with the county court clerk in the county in which the candidate resides at the same time. County court clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(6) If a candidate is unopposed in a primary or general election after the time prescribed by law for qualifying for nomination or election to the office, and has received no contributions nor made any expenditures, then *the* [his] obligation to file the reports required by KRS 121.015 and 121.100 to 121.200 shall cease. *The campaign treasurer of* a candidate who is opposed but receives no contribution or makes no expenditures shall so report on the dates designated in this section, and file all reports required by KRS 121.015 and 121.100 to 121.200.

(7) No candidate as defined in this section, nor any committee which has been organized in whole or in part to further the candidacy of such person, shall use or permit the use of contributions or funds solicited or received for such person to further the candidacy of such person for any other public office. Any funds or contributions solicited or received by or on behalf of a candidate or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further the candidacy of such person shall, at the election of the candidate or committee, be returned pro rata to all contributors or be transferred to the executive committee of the political party of which the candidate is a member.

Section 2. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who willfully *and without excusable neglect* violates any provision of KRS 121.100 to 121.200 shall be punishable by a fine not exceeding $1,000 or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions;

(a) Failure to make required reports or to file reports at times specified;
(b) Making any false statement or report;
(c) Giving money under a fictitious name;
(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who *willfully and without excusable neglect* violates any provision of KRS 121.100 to 121.200, or whose campaign treasurer *willfully and without excusable neglect* violates any provision of KRS 121.100 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.100 to 121.200.

(12) The commonwealth attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Prosecution for violation of any provision of KRS 121.100 to 121.200, shall not be commenced after four (4) years has elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(14) Any person who violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(15) Any corporation that violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(16) Any person who violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

HB 684, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk, and one (1) sheriff of election, who shall hold their offices for one (1) year and until their successors are appointed. They shall serve in all elections held in the county during the year. The county executive committees of the two (2) political parties having representation on the state board of elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than *four (4)* [eight (8)] names for each precinct except that in any precinct where there are not as many as *four (4)* [eight (8)] persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed that one (1) of the judges at each voting place is of one (1) political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, and shall not be a candidate to be voted for at the election. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty (30) minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) Each election officer shall be paid a minimum of fifteen dollars ($15.00) per day, and such an additional amount as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding said election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition ten cents (10¢) for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

HB 752, AN ACT proposing to amend the Constitution of Kentucky relating to the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that the present Constitution of Kentucky be amended by repealing present Sections 30 and 31, and enacting in lieu thereof provisions to read, be numbered and be entitled as follows:

Section 30. *Term of office of Senators and Representatives.* Members of the House of Representatives and Senators shall be elected at the general election in even-numbered years for terms of four years for Senators and two years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 31. *Time of election and term of office of Senators and Representatives.* At the general election to be held in November, 1984, and every two years thereafter, there shall be elected for four years one Senator in each Senatorial District in which the term of his predecessor in office will then expire and in every Representative District one Representative for two years.

Section 2. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:
The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for a period not to exceed ten legislative days for the purposes of electing legislative leaders, adopting rules of procedure and the organizing of committees. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session [The first General Assembly, the members of which shall be elected under this Constitution, shall meet on the first Tuesday after the first Monday in January, eighteen hundred and ninety-four, and thereafter the General Assembly shall meet on the same day every second year], and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 3. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:
The members of the General Assembly shall severally receive from the State Treasury compensation for their services [, which shall be five dollars a day during their attendance on, and fifteen cents per mile for the necessary travel in going to and returning from, the sessions of their respective Houses]: Provided, [The same may be changed by law; but] No change shall take effect during the session at which it is made; nor shall a session of the General Assembly continue beyond sixty legislative days, exclusive of Sundays, [and] legal holidays *or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years*; but this limitation as to length of session shall not apply to the [first session held under this Constitution, nor to the] Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day.

Section 4. It further is proposed as a part of this amendment and as a schedule of transitional provisions, for the purposes of this amendment, any other provision of the Constitution of Kentucky to the contrary notwithstanding, that:

1. The General Assembly shall convene in a regular session of 60 legislative days on the first Tuesday after the first Monday of January,1980, and every two years thereafter.
2. The General Assembly shall convene as directed by this amendment for odd-numbered years on the first Tuesday after the first Monday of January, 1983, and every two years thereafter.
3. Representatives elected to office in November, 1979, shall serve a two year term, and their terms of office shall expire December 31, 1981.
4. Representatives elected to office in November, 1981, shall serve a three year term, and their terms of office shall expire December 31, 1984.
5. Senators elected to office in November, 1979, shall serve a four year term, and their terms of office shall expire December 31, 1983.
6. Senators elected to office in November, 1983, shall serve three years, and their terms of office shall expire December 31, 1986.
7. Senators elected to office in November, 1981, shall serve a three year term, and their terms of office shall expire December 31, 1984.

Section 5. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided for in Sections 256 and 257 of the Constitution of Kentucky and in KRS 118.415.

HCR 73, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the Kentucky Revised Statutes relating to contested elections for the purpose of clearly defining the procedures for contesting or recounting any election and making such procedures consistent for all elections.

WHEREAS, there are now different procedures for contesting each type of election, i.e., primary, general, governor and lieutenant governor, a public question and constitutional amendments, and the differences are unnecessary; and

WHEREAS, there are variances in filing deadlines for election contests - primary, 15 days from the primary; general, 30 days after election day; governor and lieutenant governor, 30 days after final action of the state board of elections; members of the General Assembly, 15 days after the final action of the county board of commissioners; public question, 30 days after the election; constitutional amendments, 15 days after the official canvass and announcement of the vote by the state board of elections; and

WHEREAS, there is a need for separate sections for recounts and election contests so as to clearly distinguish the two procedures; and

WHEREAS, the statutes are unclear on who is to conduct a recount; and

WHEREAS, there is a need to closely examine the statutes and develop clearly-defined procedures for conducting recounts and contesting elections;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the Kentucky Revised Statutes relating to election recounts and election contests for the purpose of developing consistency and clarity in the procedures for conducting recounts and contesting elections.

Section 2. The findings and recommendations of this study shall be reported to the Legislative Research Commission and to the appropriate interim committee no later than June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost $12,000. These services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

SB 98, AN ACT proposing to amend Section 256 of the Constitution of Kentucky, relating to the mode of revision.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that the present Constitution of Kentucky be amended by amending the present Section 256 to read as follows:

Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election for members of the House of Representatives, the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. *If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment.* [Not more than two amendments shall be voted upon at any one time; nor shall the same amendment be again submitted within five years after submission. Said amendments shall be so submitted as to allow a separate vote on each, and no amendment shall relate to more than one subject. But no amendment shall be proposed by the first General Assembly which convenes after the adoption of this Constitution.] The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Amendment to **SB 98** is as follows:

Amend printed copy of **SB 98** on page 2, line 9, by inserting after the sentence ending with the word "amendments." the following sentence: "Not more than four amendments shall be voted upon at any one time."

SB 245, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the state board of elections, administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, sheriff and two members appointed by the state board of elections not later than May 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed; provided, that the first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. Where from any cause the county clerk or sheriff cannot act, the two (2) appointed members shall appoint a commissioner to serve during the period the county clerk or sheriff is ineligible. If the two (2) appointed members cannot agree on a substitute to function in place of the clerk or sheriff who becomes disqualified, such fact shall be certified to the state board within five (5) days and the board shall immediately appoint a person to serve during the period that such officer is ineligible. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and not a candidate to be voted for at the elections. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. Appointees may be removed by the state board of elections for cause. *Where from any cause an appointee is temporarily unable to act, a temporary appointee shall be named by the state board of elections. A temporary appointee shall serve until such time as the original appointee notifies the state board of elections that he is able to resume his term.* Vacancies *and temporary vacancies* shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy *or temporary vacancy* shall be of the same political party as his predecessor. Compensation of members shall be set by the fiscal court at not less than fifteen dollars ($15) per day for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and are authorized to make to the election officers such certifications as may be necessary. On said days appeals may be made to a circuit judge.

(5) In counties containing cities of the first and second class, the board shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 2. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk, and one (1) sheriff of election, who shall hold their offices for one (1) year and until their successors are appointed. They shall serve in all elections held in the county during the year. The county executive committees of the two (2) political parties having representation on the state board of elections may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than eight (8) names for each precinct except that in any precinct where there are not as many as eight (8) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. If lists are submitted, one (1) judge at

each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the officers of the election shall be so selected and appointed that one (1) of the judges at each voting place is of one (1) political party and the other judge of a different political party, and there shall be a like difference at each voting place between the sheriff and the clerk of election. The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems such action is necessary.

(2) An election officer shall be a qualified voter of the precinct, *except that where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer* [and] shall not be a candidate to be voted for at the election. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor.

(3) If the county board of elections fails to appoint election officers, or if any such officer fails to attend for thirty (30) minutes after the time for commencing the election, or refuses to act, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(4) Each election officer shall be paid a minimum of fifteen dollars ($15.00) per day, and such an additional amount as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding said election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering election returns, the sheriff and the judge of the opposite political party from the sheriff shall receive in addition ten cents (10¢) for each mile necessarily traveled from the place of voting to and from the place of delivery, to be paid by the county.

Section 3. KRS 117.185 is amended to read as follows:

(1) Not less than five (5) days before the day of any election, the county board of elections shall call together the officers of election of each precinct and instruct them in the use of the voting machines. No election officer, upon being notified to appear for instruction, shall fail without just cause so to do. If any officer does so fail to appear, the board may appoint and instruct some other qualified person, from the same list from which the defaulting officer was appointed, to act in place of the defaulting officer.

(2) Compensation *in the minimum amount of five dollars ($5) shall* [may] be paid by the county to the election officers for attending the instruction session.

Section 4. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place on election day unless the fiscal court or legislative body of an urban county government specifically authorizes by ordinance on a county wide basis electioneering and establishes the distance from the polling place where such electioneering may be permitted, but in no case shall electioneering be allowed within *a* fifty *foot perimeter of the outside entrance of the building or structure designated as the polling place* [feet of the polls].

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

Section 5. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer except as otherwise provided by law. In any election when candidates for city office are voted upon, the city shall bear its proportionate share of the cost of the election.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify the amount of such expenses, indicating each item of expense separately, together with a statement of the number of precincts in the county, the date and kind of election to the state board of elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the state board of elections shall issue its warrant upon the state treasurer in favor of the county treasurer for [one-half (1/2) of] the amount of [the expenses but not exceeding in any event an amount equal to] eighty-five dollars ($85.00) for each precinct in the county. All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the state property and buildings commission executed in connection with the acquisition of voting machines by the commission for the use of such county; and payments to any county shall be terminated whenever such county fails to pay any part of the rentals required for any effective period of the lease.

Section 6. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than fifty-five (55) days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one county, and for members of congress and members of the general assembly, shall file their nomination papers with the secretary of state not less than fifty-five (55) days before the day fixed by law for holding the primary election.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of each candidate. The proper officer shall notify the candidate by *regular* [registered] mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by registered mail within twenty-four (24) hours of filing. Upon receipt of such notice, the candidate shall correct such error not later than seventy-two (72) hours after the filing deadline.

Section 7. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provision of subsection (2) of this section.

(2) A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain *five thousand (5,000)* [one thousand (1,000)] petitioners; for a representative in congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer or member of the general assembly, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for an officer of a precinct or ward, or other division less than a county except as herein provided, twenty (20) petitioners. The signatures of the petition need not be appended to one (1) paper. No petitioner shall be counted unless his residence and post-office address are designated. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed. The petition shall state the name and residence of each of the candidates, the name of the office for which he is running, the district, if applicable, from which he is running, that he is legally qualified to hold the office, and that the subscribers desire, and are legally qualified, to vote for the candidate. The petition shall designate a brief name or title of the party or principle that the candidate represents, together with any simple figure or device by which it is desired that he be designated on the voting machines.

(3) The state board of elections shall prescribe the forms for the petition.

Section 8. KRS 118.415 is amended to read as follows:

(1) Whenever an amendment to the constitution has been proposed by the general assembly, the secretary of state shall cause the text of the proposed amendment to be published at least *one (1) time* [four (4) times] in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the general assembly are to be voted for. The publication shall be made [so that the last publication will be] at least ninety (90) days preceding the election at which the amendment is to be voted on.

(2) The attorney general shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the state board of elections to be placed on the voting machine. The state board of elections, not less than fifty (50) days before the next regular election at which members of the general assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the attorney general, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed and certified to the state board of elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the constitution. [The result of the vote shall be published by the secretary of state pursuant to KRS Chapter 424.]

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the secretary of state is required to make in connection with elections.

Section 9. KRS 118.425 is amended to read as follows:

(1) The state board of elections shall issue certificates of election where the successful candidate was voted for by the state at large or by a district greater than one (1) county, or was a candidate for member of congress or the general assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of congress and members of the general assembly. The board shall forward the certificate to the elected candidate unless he has failed to comply with KRS Chapter 121. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of offices voted for by the state at large or by a district greater than one (1) county, and for members of congress and members of the general assembly, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for such office and the total number of votes for and against each of such questions. The clerk shall keep one (1) of the certificates in his office, he shall not later than three (3) days after receiving such certificate from the board, forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(4) The state board of elections shall meet, to count and tabulate the votes received by the different candidates as certified to the secretary of state, when the returns are all in, or on the second Monday after the election whether they are in or not, but if all the returns are not made, the right to contest an election shall not be impaired. Any two (2) of the members of the board may act in the absence of the third. The board shall make out the certificates of election in the office of the board, from the returns made. The board shall make out duplicate certificates of election, in writing, over the signatures of its members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board. In the case of the election of a representative in congress, an additional certificate shall be made and sent, by mail, to the clerk of the house of representatives.

[(5) The state board of elections, immediately after the comparison of the returns, shall cause a statement therefrom of the votes given in every county for each candidate to be published pursuant to KRS Chapter 424.]

(5) [(6)] The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons. In the case of elections for electors of president and vice president of the United States, the board shall issue a certificate of election to each elector of the political party or organization whose candidates for president and vice president received the highest number of votes and the determination by the board that the candidates of any political party or organization for president and vice president have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

Section 10. KRS 118.590 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of president of the United States who has not been nominated by the state board of elections, or any group organized in this state on behalf of, and with the consent of, such person, may file with the secretary of state certified petitions signed by *five thousand (5,000)* [1,000] persons who, at the time they sign are registered and qualified voters in this commonwealth and are affiliated, by such registration, with the same political party as the candidate for whom petitions are filed.

(2) Such petitions shall be filed by the petitioners with the secretary of state no later than fifty-five (55) days before the date fixed by law for the holding of the primary election.

(3) The petitions must state:

(a) The name of the candidate for nomination and the party of which he is a member;

(b) The name and address of the chairman of the group circulating such petition.

(4) The secretary of state shall forthwith determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed said petitions.

Section 11. KRS 118A.190 is amended to read as follows:

(1) The state board of elections shall issue certificates of nomination or election for all primary and regular elections as provided in this section.

(2) Following a primary or regular election, the board of elections of each county shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and

numbered division thereof if divisions exist. The board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the board, shall forward the other certificate by mail to the secretary of state who shall deliver it to the state board of elections.

(3) When all the returns are received by the state board of elections, the board shall meet to count and tabulate the votes received by the different candidates as certified to the secretary of state. If all returns have not been received by the second Monday after the primary or regular election, the board shall, nevertheless, proceed with its duties at that time. When the board certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. Any two (2) of the members of the board may act in the absence of the third. The board shall prepare the certificates of nomination or election in the office of the board, from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the board members. The board shall forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the board.

[(4) The state board of elections, immediately after the comparison of the returns, shall publish pursuant to KRS Chapter 424 a statement of the votes given in every county for each candidate.]

(4) [(5)] Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

(5) [(6)] The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in such manner as the board directs, in the presence of not less than three (3) other persons.

The Committee Amendment to **SB 245** is as follows:

Amend printed copy of **SB 245** on page 7, line 14, after "*perimeter of the*" insert "*voting machine*" and delete the following: "*outside entrance of the building or structure designated as the polling place*"

and on page 11, line 20, after "at least" delete "*one (1) time*" and insert in lieu thereof the following: "*two (2) times*"

The Committee on State Government reported **HB 545, HB 566** with Committee Amendment No. 1 and Title Amendment attached thereto, **HB 569, HB 622** with Committee Amendment attached thereto, **HCR 45, HCR 54, HCR 71, HCR 84, HCR 87**, and **HCR 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 545, AN ACT relating to security for the general assembly and the legislative research commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

The bureau of state police shall furnish adequate protection for the property and facilities of the general assembly and the legislative research commission, both during and between sessions of the general assembly, and shall render such additional security services as may be required by the co-chairmen of the legislative research commission.

HB 566, AN ACT relating to the rural Kentucky scholarship fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.015 is amended to read as follows:

As used in KRS 211.005 to 211.330, unless the context requires otherwise:

(1) "Department" means the department for human resources;

(2) "Secretary" means the secretary for human resources;

(3) *"Medically underserved area" means any county or portions thereof, which meets the requisite criteria as promulgated by the department of health, education, and welfare which takes into account such indicators as:*

(a) Ratio of primary care physicians to population;
(b) Infant mortality rate;
(c) Percentage of the population which is sixty-five (65) or over; and
(d) Percentage of population with family income below the poverty level.
(4) As used in KRS 211.740 and 211.750, unless the context otherwise requires:
(a) "Bureau" means bureau for health services;
(b) "Commissioner means the commissioner of the bureau for health services;
(c) "Committee" means the hemophilia advisory committee;
(d) "Hemophilia" means a bleeding disorder resulting from a genetically determined deficiency factor in the blood, or hereditarily resulting in an abnormal or deficient plasma procoagulant.

Section 2. KRS 211.290 is amended to read as follows:
The Kentucky department for human resources shall aid, assist and promote the rural Kentucky medical scholarship fund with such sums as may, from time to time, be appropriated by the general assembly for this purpose *except that thirty percent (30%) of such sums appropriated shall solely be utilized for developing and increasing the supply of physicians in medically underserved areas of counties containing cities of the first and second class.*

The Comittee Title Amendment to **HB 566** is as follows:

Amend printed copy of **HB 566** on page 1, the Title line, by changing the words "rural Kentucky scholarship fund" to "Kentucky medical scholarship fund"

The Committee Amendment to **HB 566** is as follows:

Amend printed copy of **HB 566** on page2, line 12, by bracketing the word "rural";

and on page 2, line 15, by deleting the words "*except that thirty percent (30%) of such sums*";

and on page 2, line 16, by deleting the words "*appropriated shall solely be utilized for developing*".

HB 569, AN ACT relating to holidays.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.110 is amended to read as follows:
(1) The 1st day of January (New Year's Day), [the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday),] the third Monday in February *(Presidents' Day, Martin Luther King Day, Robert E. Lee Day and Jefferson Davis Day)* [(Washington's Birthday)], the last Monday in May (Memorial Day), [the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day),] the 4th day of July (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), the 11th day of November (Veterans Day), the 25th day of December (Christmas Day) of each year, and all days appointed by the President of the United States or by the governor as days of thanksgiving, are holidays, on which all the public offices of this commonwealth may be closed; and, subject to the provisions of subsection (2) of this section, shall be considered as Sunday for all purposes regarding the presenting for payment or acceptance, and of protesting for and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, placed by law upon the footing of bills of exchange. If any of the days named as holidays occur on Sunday, the next day thereafter shall be observed as a holiday but bills of exchange or other papers may be presented for payment or acceptance on the Saturday preceding the holiday and proceeded on accordingly.
(2) Any bank, trust company, or combined bank and trust company, may, at its option, either close or remain open for business on the 15th day of January (Martin Luther King Day), the 19th day of January (Robert E. Lee Day), the 30th day of January (Franklin D. Roosevelt Day), the 12th day of February (Lincoln's Birthday), the third Monday in February (Washington's Birthday), the 3rd day of June (Confederate Memorial Day, and Jefferson Davis Day), the second Monday in October (Columbus Day), and the 11th day of November (Veterans Day). Any bank, trust company, or combined bank and trust company electing to remain open on such of the above mentioned holidays may do so and as to such bank, trust company, or combined bank and trust company such day or days shall not constitute a holiday within the meaning of the provisions of the

negotiable instrument law or any other law of the commonwealth and such bank, trust company, or combined bank and trust company shall incur no liability by reason of remaining open on such holiday, provided that any bank, trust company, or any combined bank and trust company, electing to remain open on any of the above mentioned holidays which occurs on a Monday, Tuesday, Wednesday, Thursday or Friday shall remain closed the following Saturday, or shall comply with KRS 287.197. If any such bank, trust company, or combined bank and trust company elects to close on such holidays, any act authorized, required or permitted to be performed at or by such bank, trust company, or combined bank and trust company, may be performed on the next succeeding business day and no liability or loss of rights of any kind shall result from remaining closed notwithstanding the provisions of any law of this commonwealth to the contrary. The provisions of this section shall not operate to invalidate or prohibit the doing on any of the aforementioned legal holidays of any act by any person or bank or trust company, or combined bank and trust company, and nothing in this section shall, in any manner whatsoever affect the validity of or render void or voidable the payment, certification or acceptance of a check or any other negotiable instrument or any other transaction by any person or bank or trust company or combined bank and trust company because done or performed during any of the aforesaid holidays, notwithstanding the provisions of any other law of this commonwealth to the contrary.

(3) No person shall be compelled to labor on the first Monday in September (Labor Day) by any person.

HB 622, AN ACT relating to the compensation of public officers and employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.480 is amended to read as follows:

(1) Effective, with respect to the offices of governor on December *11* [4], 1979, and the lieutenant governor on the fifth Tuesday following the regular November election in 1975 and with respect to the other offices named in this section, on the first Monday in January, 1976, the compensation of the following named officers, payable monthly out of the state treasury, shall be the sum per annum designated for the respective offices, as follows: governor, *$45,000 until December 11, 1981, and then $50,000 thereafter* [$39,500]; lieutenant governor, an amount sufficient, when added to any per diem received during sessions of the general assembly while serving in the capacity of president of the senate, to equal $27,900 per annum, plus any compensation received while acting in the place of the governor; attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the Supreme Court of Kentucky elected in November, 1975, as clerk of the Court of Appeals, $27,900.

(2) In order to equate or adjust the compensation of the lieutenant governor, attorney general, superintendent of public instruction, commissioner of agriculture, secretary of state, state treasurer, auditor of public accounts, and clerk of the Supreme Court of Kentucky with the purchasing power of the 1949 dollar, the department of commerce of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in subsection (2) hereof based precisely upon the consumer price index formula approved in Matthews v. Allen, Kentucky, 360 S.W. 2d 139 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.

(3) It is the intention of the legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when section 246 of the Kentucky Constitution was amended. Section 246 of the Constitution, as amended, established a monetary level of $12,000 per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current consumer price index.

Section 2. KRS 64.485 is amended to read as follows:

The salary for each justice of the Supreme Court, payable out of the state treasury, shall be thirty-nine thousand dollars ($39,000) per annum, except for the salary of the chief justice of the Supreme Court which shall be thirty-nine thousand five hundred dollars ($39,500)per annum *until December 31, 1979, and thereafter the salary for each justice of the Supreme Court, payable out of the state treasury, shall be forty-two thousand dollars ($42,000) per annum, except for the salary of the Chief Justice of the Supreme Court which shall be forty-two thousand five hundred dollars ($42,500) per annum.*

Section 3. KRS 64.497 is amended to read as follows:

[The salary of each judge of the Court of Appeals, payable out of the state treasury, shall be thirty-one thousand and five hundred dollars ($31,500) per annum until June 30, 1976, and thereafter] The salary of each judge of the Court of Appeals payable out of the state treasurey should be thirty-seven thousand dollars ($37,000), with the exception of the chief judge of the Court of Appeals who shall receive a salary of thirty-seven thousand five hundred dollars ($37,500), *until December 31, 1979, and thereafter, the salary of each judge of the Court of Appeals payable out of the state treasury shall be forty thousand dollars ($40,000), with the exception of the Chief Judge of the Court of Appeals who shall receive a salary of forty thousand five hundred dollars ($40,500).*

Section 4. KRS 64.499 is amended to read as follows:
The salary of each circuit judge, payable out of the state treasury, shall be thirty-five thousand dollars ($35,000) per annum *until December 31, 1979, and thereafter, the salary of each circuit judge, payable out of the state treasury, shall be thirty-eight thousand dollars ($38,000) per annum.*

Section 5. KRS 64.507 is amended to read as follows:
The salary of each district judge, payable out of the state treasury, shall be twenty-seven thousand five hundred dollars ($27,500) per annum *until December 31, 1978 and then twenty-eight thousand five hundred dollars ($28,500) per annum until December 31, 1979 and thereafter thirty-one thousand five hundred dollars ($31,500) per annum.*

The Committee Amendment to **HB 622** is as follows:

Amend printed copy of **HB 622** on page 3, lines 4 through 26 by deleting same;

and on page 4, lines 1 through 25 by deleting same.

HCR 45, A CONCURRENT RESOLUTION directing the study of consumer reporting agencies and the need for the regulation thereof.

WHEREAS, the maintenance of a good credit standing is of utmost importance to consumers in obtaining credit, insurance and employment, and for their general reputation; and

WHEREAS, consumer reporting agencies have assumed a vital role in assembling and evaluating credit and other information on consumers; and

WHEREAS, there is a need to insure that consumer reporting agencies exercise their grave responsibility with fairness, impartiality and respect for the consumer's right to privacy; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to conduct a study of the consumer reporting agencies in the Commonwealth of Kentucky to include but not necessarily be limited to the following subjects:

(a) Analysis of the consumer reporting agency industry in the Commonwealth;

(b) Survey of any existing or proposed laws of the other states of the Federal Government regulating consumer reporting agencies; and

(c) Consideration of the necessity for the regulation of consumer reporting agencies.

Section 2. The study shall be concluded and reported to the appropriate Joint Interim Committee not later than June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost $8,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 54, A CONCURRENT RESOLUTION inviting Mr. Joseph A. Califano to address a Joint Session of the General Assembly.

WHEREAS, Mr. Joseph A. Califano, Secretary of Health, Education and Welfare of the United States, seeks to undertake a vigorous campaign to eliminate the use of tobacco by millions of Americans; and

WHEREAS, both U.S. Senators Walter D. Huddleston and Wendell Ford have expressed most strenuous objections to portions of Mr. Califano's proposal, and have discussed such objections with President Carter; and

WHEREAS, any significant curtailment of the use of tobacco among consumers, which Mr. Califano seeks to accomplish, would affect severely the livelihood of thousands of Kentuckians; and

WHEREAS, a more cogent alternative to such campaign and use of the funds required therefor would appear to be an emphasis on conducting research into any health hazard tobacco may cause; and

WHEREAS, the General Assembly is most keenly interested in Mr. Califano's position on these matters, since so vast a number of Kentuckians would be affected thereby;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That Mr. Joseph A. Califano, Secretary of Health, Education and Welfare of the United States, be and he hereby is invited to address a Joint Session of the Kentucky General Assembly during its 1978 Regular Session.

Section 2. That the Clerk be directed to transmit a copy of this resolution to Mr. Joseph A. Califano.

HCR 71, A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the changes which would be required in the operation of the General Assembly of the Commonwealth of Kentucky and the Legislative Research Commission if legislators serve an interim before serving in a session.

WHEREAS, the members of the General Assembly presently begin their terms of office in a regular session of the General Assembly and then serve an interim period before re-election; and

WHEREAS, it has been proposed that the legislature could better utilize the time and experience of its members if each legislator could serve an interim before serving in a regular session; and

WHEREAS, such a proposal would necessitate an orderly transition in the operation of the General Assembly, the Legislative Research Commission and interim committees;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission direct a study of the ways and means of providing an orderly transition for members of the General Assembly and for the operation of the Legislative Research Commission for the accomplishment of the proposal to permit legislators to serve an interim before serving in a session.

Section 2. That the findings and recommendations of this study shall be reported to the Legislative Research Commission no later than June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost $12,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 84, A CONCURRENT RESOLUTION concerning the imprisonment of the Russian Pastor, Georgi Vins, by the U.S.S.R.

WHEREAS, Georgi Vins, the valiant leader of the Soviet unregistered Baptists, was sentenced to five years in prison and another five years of deportation for the offense of preaching the Gospel and exercising the right of worship; and

WHEREAS, his family has been subjected to harsh persecution, including the temporary imprisonment of his fifteen year-old daughter, Lisa, and imprisonment of his twenty-three year-old son, Piotr, on December 8, 1977; and

WHEREAS, reports indicate that Pastor Vins' health is gravely endangered due to harsh punishment and continuing interrogation; and

WHEREAS, Christian bodies in many countries have expressed their moral and spiritual protests to Soviet authorities over his continued imprisonment; and

WHEREAS, the Soviet Union is a signatory to the 1975 Helsinki Conference on Security and Cooperation in Europe, guaranteeing freedom of expression and freedom of transit across national borders; and

WHEREAS, Professor Andrei Sakharov has reminded the West that by the window dressing of these accords "monstrous cruelty" is visited by the Soviets on those who exercise freedom of conscience; and

WHEREAS, these gross violations are a test of the resolve of the western nations to uphold the principles of human rights in other countries; and

WHEREAS, numerous protests have been made on behalf of other well-known political prisoners in Soviet Russia;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the House of Representatives strongly protests to the Soviet Embassy and to Chairman Leonid Brezhnev the continued harassment and imprisonment of Georgi Vins.

Section 2. That a copy of this resolution be sent to the United States State Department, urging them to take every action possible to secure the release of Pastor Vins.

Section 3. That this resolution be distributed as widely as possible to the news media of the United States.

HCR 87, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study of the feasibility and desirability of establishing a museum in Eastern Kentucky which would focus on the unique traditions of Appalachian Kentucky, with special emphasis on the role of the coal miner in 20th century mountain life.
WHEREAS, the underground coal miner has exhibited steadfast courage and willpower to labor at an occupation under trying and often dangerous conditions; and
WHEREAS, the legacy of the coal miner has been handed down from father to son over the decades; and
WHEREAS, the underground coal miner has sacrificed life and limb to provide heat and light for the people of the nation; and
WHEREAS, the coal miner is an inseparable part of the culture of Appalachian Kentucky, having contributed to the development of its distinctive nature; and
WHEREAS, the folklore and artifacts of the underground coal miner should be preserved for future Kentuckians as a reminder of the coal miners' enduring contribution to the Appalachian way-of-life;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to conduct a study of the feasibility and desirability of establishing a museum in Eastern Kentucky which would focus on the unique traditions of Appalachian Kentucky, with special emphasis on the role of the coal miner in 20th century mountain life.

Section 2. That this study, including its findings and recommendations, be completed by June 1, 1979.

Section 3. Staff services to be utilized in completing this study are estimated to cost eight thousand dollars ($8,000). These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

HCR 88, A CONCURRENT RESOLUTION recommending the establishment of the Kentucky Coal Mining Museum.
WHEREAS, Kentucky is the nation's leading coal producer; and
WHEREAS, coal has been an extremely valuable resource throughout the history of the Commonwealth; and
WHEREAS, coal has played an integral role in the development of the culture of the state; and
WHEREAS, the Kentucky Coal Mining Museum Feasibility and Planning Study concluded that a coal mining museum and exhibition mine located at the abandoned U.S. Steel Mine 32 on Black Mountain in Harlan County, Kentucky, is desirable and would be self-supporting; and
WHEREAS, the museum and exhibition mine would be a valuable cultural and educational asset;
NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

That the Kentucky Coal Mining Museum be established at the abandoned U.S. Steel Mine 32 on Black Mountain in Harlan County, Kentucky.

The Committee on Judiciary-Statutes reported **HB 259** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Judiciary-Statutes reported **SB 102,** with Committee Amendment attached thereto, wtih the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Amend printed copy of **SB 102** on page 6, line 12 by deleting "*reptile*"

and on page 27, line 19, by deleting "*anytime,*" and "*a tag*"

and on page 27, line 19, by inserting after "*bears*" the word "*identification*"

and on 27, line 20, by inserting after "*taken*" and before the period the words "*until such time as it is mounted*"

and on page 27, line 24, by deleting "*tag*" and inserting in lieu thereof "*identification*"

and on page 28, line 19, by inserting after "*shall*" "*knowingly*"

The Committee on Judiciary-Statutes reported **HB 501, HB 683** with Committee Amendments attached thereto, **HB 714, SB 115,** and **SB 131** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 501, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.010 is amended to read as follows:

The purpose of this chapter is:

(1) To provide for the protection of adults who may be suffering from abuse, neglect, or exploitation, and to bring said cases under the purview of the circuit or district court.

(2) To provide that any person who becomes aware of such cases shall report them to a representative of the *department* [bureau], thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

Section 2. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the department for human resources.

(2) "Department" means the department for human resources.

(3) "Bureau" means the bureau for social services of the department for human resources.

(4) "Adult" means a person eighteen (18) years of age or older *or a married person under the age of eighteen (18) years of age* who because of mental or physical dysfunctioning, *or because he is the victim of abuse or neglect inflicted by his spouse,* is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and who has no available, willing, and responsibly able person to assist him and may be in need of protective services.

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home.

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement.

(7) "Abuse or neglect" means the infliction of physical pain, injury, or mental anguish, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare *or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse.*

(8) "Exploitation" means the improper use of funds by a caretaker which have been paid by a governmental agency to an adult or to the caretaker for the use or care of the adult.

(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly cause of death, a coroner's or doctor's report shall be examined as part of the investigation.

Section 3. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest.

(a) The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(b) The provisions of paragraph (a) of this subsection shall not apply unless the adult agrees, in writing, to prosecute the spouse.

(2) Any person, including, but not limited to, physician, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employe, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the *department* [bureau] upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the *department* [bureau] shall take the following action as soon as practical:

(a) Notify the appropriate law enforcement agency;

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the *department* [bureau] may enter any health facility or health service licensed by the department at any reasonable time to carry out its responsibilities under this chapter.

(6) Any representative of the *department* [bureau] may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the *department* [bureau] to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the *department* [bureau] shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the department, the caretaker shall not interfere with the department when rendering such services.

HB 683, AN ACT relating to the awarding of public contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, the Commonwealth of Kentucky is committed to a policy of providing equal job opportunities on public contracts and prohibiting discrimination based on race, creed, color, sex, age, religion or national origin; and

WHEREAS, since the population of Kentucky consists of people of every race, creed, color, sex, age, religion and national origin, the Commonwealth has a vital and compelling interest in initiating positive practices in the expenditure of public funds to promote the general welfare of the state and to to make possible the achievement of these laudable purposes; and

WHEREAS, the enactment of programs calling for affirmative action to assure equality of opportunity is essential to promote the full realization of the rights of all citizens, consistent with ability to participate in the economic life of the state; and

WHEREAS, this bill constitutes an emergency measure for the immediate preservation of the public peace, property, health and welfare by reason of social and economic conditions requiring immediate programs of affirmative action to insure non-discriminatory recruiting and hiring;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the Kentucky equal employment opportunity act of 1978.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context requires otherwise:

(1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employe.

(2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.

(3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employe or official which is authorized by law to purchase or contract for supplies, materials, services or equipment for the state.

(4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.

(5) "Department" means the executive department for finance and administration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

Except in contracts exempted in accordance with this Act, all government contracting agencies of the Commonwealth of Kentucky, any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in every directly or indirectly publicly funded contract for supplies, materials, services, or equipment hereinafter entered into the following provisions:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employe or applicant for employment because of race, color, religion, sex, age, or national origin;

(2) The contractor will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employes during employment are treated without regard to their race, color, religion, sex, age or national origin;

(3) The contractor will state in all solicitations or advertisements for employes placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, or national origin;

(4) The contractor will post notices in conspicuous places, available to employes and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this Act; and

(5) The contractor will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

Failure to comply with any of the provisions of Section 2 of this Act shall constitute a material breach of the contract.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

A contractor or subcontractor otherwise subject to the provisions of this Act is exempt as to any affirmative action or reporting requirements if:

(1) The contract or subcontract awarded is in the amount of $10,000 or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of this Act;

(2) The contractor or subcontractor utilizes the services of fewer than eight (8) employes during the course of the contract;

(3) The contractor or subcontractor employs only family members or relatives;

(4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Any party not otherwise exempted by Section 5 of this Act and intending to submit a bid on any contract covered by the provisions of this Act shall, no later than thirty (30) days prior to the announced opening of bids, submit to the contracting agency and the department:

(a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by this Act upon being designated the successful bidder.

(b) A breakdown of the bidding party's existing work force, indicating the race, sex, age, position held, county and state of residence, and date of employment of each employe.

This report shall be submitted in a manner as shall be prescribed by the department and on forms devised by the department and supplied by the contracting agency.

(2) Within ten (10) days after the receipt of this report, the department shall determine whether the bidding party's work force is reflective of the percentage of available minorities in the area from which the bidding party's employes are drawn. If a determination is made that the bidding party's work force is reflective of the percentage of available minorities in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by this Act without filing additional data for a period of six (6) months.

(3) If it is determined by the department that the bidding party's work force reflects an under utilization of minorities, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the department, up until five (5) days before the date bids are accepted, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities throughout the contractors' work force. The department shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of this Act.

(4) If the department determines that the submitted affirmative action program is adequate to fulfill the provisions of this Act, and that the included goals and timetables will be attained prior to the expiration date of the contract being sought, the bidding party shall be "certified" and shall be qualified to bid on any contracts covered by this Act for a period of six (6) months. If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under this Act and shall constitute a material breach of the contract.

(5) If the department determines that the submitted affirmative action program does not fulfill the provisions of this Act, the bidding party and contracting agency shall be so notified, and no certification shall be granted.

(6) Only parties who have been certified under this section or are exempted under Section 5 of this Act shall be considered eligible to bid on contracts covered under this Act. Any bid filed by any party which is not accompanied by certification by the department shall be rejected by the contracting agency as an unacceptable bid.

SECTION 7. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) For the length of the contract, each contractor shall hire minorities from other sources, should the union with which he has collective bargaining agreements be unable or unwilling to supply sufficient minorities to satisfy the agreed upon goals and timetables.

(2) Each contractor shall, for the length of the contract, furnish such information as required by this Act and by such rules, regulations and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the department for purposes of investigation to ascertain compliance with this Act and such rules, regulations and orders issued pursuant thereto.

SECTION 8. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) If any contractor is found by the department to have engaged in an unlawful practice under this chapter during the course of performing under a contract or sub-contract covered under this Act, the department shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

(2) If the contractor is found to have committed an unlawful practice under this Act, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the department. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of this Act.

(3) The equal employment provisions of this Act may be met in part by a contractor by subcontracting to a minority contractor or subcontractor. For the provisions of this Act, a minority contractor or subcontractor shall mean a business that is owned and controlled by one or more persons disadvantaged by racial or ethnic circumstances.

The Committee Amendment No. 1 to **HB 683** is as follows:

Amend printed copy of **HB 683** on page 5, line 11, by deleting "$10,000" and inserting in lieu thereof "$250,000".

The Committee Amendment No. 2 to **HB 683** is as follows:

Amend printed copy of **HB 683** on page 4, line 10, after the semicolon, add the following language: "however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off."

and on page 8, after line 11, add the following new subsection:

"(7) If the bidding party's workforce is not reflective of the percentage of minorities in the drawing area and he has complied with all other affirmative action requirements in this Act, he may certify by verified affidavit that he has made every reasonable effort to comply with said percentage requirements, and he shall thereafter be entitled to all the benefits of the Act."

and on page 4, line 15, after the word "sources", add the following words: "within the drawing ares,"

and on page 4, line 17, delete the words "unable or"

HB 714, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.177 is amended to read as follows:

(1) Any misdemeanant [, sentenced for a period of 30 days or more,] may petition the [district judge of the] sentencing court for parole privileges.

(2) The *sentencing* [district] judge shall study the record of all persons petitioning for parole and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the bureau of corrections;

(b) Conduct hearings on the desirability of granting parole;

(c) Impose on the parolee such conditions as he sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of their parole and conduct hearings on such matters;

(f) Determine the period of supervision for parolees, which period may be subject to extension or reduction;

(g) Grant final discharge to parolees.

(3) The *sentencing* [district] judge shall keep a record of his acts, and shall notify the appropriate jail official of his decision relating to the persons who are or have been confined therein.

(4) Whenever an order for parole is issued it shall recite the conditions thereof, and such orders shall be transmitted to the bureau of corrections.

(5) The period of time spent on parole shall not count as a part of the prisoner's maximum sentence except in determining the parolee's eligibility for a final discharge from parole as set out in subsection (7).

(6) Paroled prisoners shall be under the supervision of the department and subject to its decision for the duration of parole. Supervision of the parolee by the bureau of corrections shall cease at the time of

recommitment of the prisoner to the jail as a parole violator, or at the time a final discharge from parole is granted by the *sentencing* [district judge].

(7) When any paroled prisoner has performed the obligations of his parole during his period of active parole supervision the *sentencing* [district] judge may, at the termination of such period to be determined by the *sentencing* [district] judge, issue a final discharge from parole to the prisoner. Unless ordered earlier by the *sentencing* [district judge], a final discharge shall be issued when the prisoner has been out of jail on parole a sufficient period of time to have been eligible for discharge from jail by maximum expiration of sentence had he not been paroled, provided before this date he had not absconded from parole supervision or that a warrant for parole violation had not been issued.

(8) The prisoner convicted of a misdemeanor and released on parole under the provisions of this statute shall be subject to all reasonable bureau of corrections rules and regulations.

Section 2. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless such privilege is expressly granted by the court, the prisoner is sentenced to ordinary confinement. The prisoner may petition the *sentencing* court for such privilege at the time of sentence or thereafter, and, in the discretion of the *sentencing* court, may renew his petition. The *sentencing* court may withdraw the privilege at any time by order entered with or without notice.

(3) The jailer shall notify the Department for Human Resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the district court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. Such wages or salary are not subject to garnishment of either the employer or the district court during the prisoner's term, and shall be disbursed only as provided in this section; but for tax purposes they are the income of the prisoner.

(4) Every prisoner gainfully employed is liable for the cost of his board in the jail, at the amount established by law. If he defaults his privilege under this section is automatically forfeited. In those cases where the prisoner is confined for a breach of the bylaws or ordinances of a city, or for violation of a statute where the city gets the benefit of the fine, the board will be paid by the district court to the city treasury. In those cases where the prisoner is confined for contempt, board shall be paid by the district court to the state treasury. In all other cases the fiscal court shall receive the wages earned and disburse the funds as provided in subsection (5). The fiscal court may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment.

(5) Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the district court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) If the prisoner was convicted in a justice or a police court, the district judge shall have authority and jurisdiction to make all determinations and orders under this section as might otherwise be made by the sentencing court after the prisoner is received at the jail.

(7) The district court may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. Such order shall remain in force until rescinded by the district court.

(8) The bureau of corrections shall, at the request of the district judge, investigate and report on the amount necessary for the support of the prisoner's dependents.

(9) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed 5 days.

(10) Nothing in this statute shall be construed to affect KRS 64.150 which provides for the payment of fees to the jailer. In this section "jail" refers to all misdemeanant institutions, and "jailer" to the superintendent thereof, but, in counties of the first class, "jailer" designates the sheriff who serves as superintendent of the jail.

SB 115, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.070 is amended to read as follows:

Unless otherwise rescheduled by regulation of the department for human resources the controlled substances listed in this section are included in Schedule II:

(1) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a), but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, *isomer,* derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions *of coca leaves* which do not contain cocaine or ecgonine.

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation: Alphaprodine; Anileridine; Bezitramide; Dihydrocodeine; Diphenoxylate; Fentanyl; Isomethadone; Levomethorphan; Levorphanol; Metazocine; Methadone; Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; Pethidine; Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; Phenazocine; Piminodine; Racemethorphan; Racemorphan.

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

(a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(b) Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;

(c) Phenmetrazine and its salts;

(d) Methylphenidate.

SB 131, AN ACT relating to prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 197.140 is amended to read as follows:

No prisoner who is serving a sentence for rape [, attempted rape] *in the first, second or third degrees* [,] or who has escaped or attempted to escape from an adult correctional institution within the past five (5) years, or who has been convicted of [armed] robbery *in the first degree* or [armed] assault *in the first or second degrees* [with intent to rob where any injury has been inflicted upon any other person during the commission of the offense,] shall be worked or released for work outside of the walls of the prison, *except during the ninety (90) day period immediately preceding release from the institution.* No prisoner who has been sentenced to life imprisonment shall be worked or released for work outside of the walls of the prison until he has actually served within the walls of the prison for at least one (1) year of his sentence.

Regular Calendar

HB 76, HB 576, HB 579, HB 626, HB 638, SB 198, HB 206, HB 520, HB 618, HCR 50, SB 114, HB 519, HB 605, HB 270, HB 275, HB 290, HB 293, HB 312, HB 573, HB 629, SB 148, HB 413, HB 584, SB 118, HB 472, HB 13, HB 154, HB 493, HR 43, HB 321, HB 449, HB 463, HB 465, HB 468, HB 640, HB 647, HB 648, HB 660, HB 661, HB 675, HCR 17, HJR 35, HCR 48, HCR 70, HR 75, SJR 17, SB 78, SB 178, HB 419, HB 499 taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 590, HB 588, HB 589, HB 331, HCR 94, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598, HCR 68, HR 66, and **HB 319** taken from the Consent Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of bills and Resolutions: Representative W. Allen, **HB 614;** Representative Boswell, **HB 401;** Representative Kleier, **HB 168;** Representative Layman, **HB 613, HB 614;** Representative Pearman, **HB 735;** Representative Romines, **HR 76;** Representative Stone, **HR 104.**

Recess

Representative B. Richardson moved that the House recess for five minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

The Clerk announced the filing of petitions to remove the following Bills from Consent Orders of the Day: **SB 42, SB 41, SB 25, SB 26, SB 27,SB 31, SB 20,** and **SB 21.**

Representative Boatwright moved that **HB 624** be taken from the Committee on State Government and sent to the Committee on Appropriations and Revenue. Agreed.

Representative DeFalaise moved that **HB 430** be discharged from the Committee on Cities.

On the roll call the vote was yeas 42-W. Allen, Bennett, Blythe, Boatwright, Brinkley, Brown, Burnette, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Gay, Gray, Haering, Holloway, Johnson, Layman, Marcum, McKinney, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, P. Richardson, Riner, Romines, Schmidt, R. Smith, Stone, Thomas, Tobin, Trevey, Van Horn, Williams, Wright. Nays 29-Adams, J. Allen, Bendl, Benson, Beshear, Blandford, Boswell, Bruce, Burch, Clapp, Clarke, Craddock, Guy, Head, Holbrook, Jones, Kenton, Kidd, Kleier, McNutt, Morris, Nett, Noe, O'Brien, Richards, B. Richardson, Siemens, Stewart, Turner.

The motion that **HB 430** be dischargedfrom the Committee on Cities was rejected.

Representative Holloway moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 107, by Representative Holloway: A RESOLUTION in honor and memory of Dr. Curtis L. Niceley.

HR 107, A RESOLUTION in honor and memory of Dr. Curtis L. Niceley.

WHEREAS, the Honorable Dr. Curtis L. Niceley, Baptist minister and consultant at Southern Baptist Theological Seminary, has crossed that final bourne from which no traveler returns; and

WHEREAS, his life was one of progress and activity up until his death during his 89th year; and

WHEREAS, his indomitable spirit, his boundless enthusiasm, his jovial good nature, his determination in the cause of right, and his remarkable penchant for accomplishment were the hallmarks of Dr. Niceley, even until his final moments; and

WHEREAS, the loss of so illustrious a personage from the sphere of human activity leaves a void almost unfillable and a soreness of heart nearly irreparable;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives does adjourn this day, Thursday, March 2, 1978, it does so in memory, honor and tribute to Dr. Curtis L. Niceley, and extends deepest sympathy to his family.

Section 2. That the clerk be directed to transmit a copy of this resolution to the widow of Dr. Curtis L. Niceley.

Representative Holloway moved the adoption of **HR 107.**

HR 107 was adopted by voice vote.

Representative Noe moved the adoption of the following Legislative Citation No. 22:

The House of Representatives hereby commends Judge Sidney Douglass, Harlan, Kentucky for his indomitable courage and fairness exemplified during the nationwide United Mine Workers Strike. His psychological approach in advocating non-violence through implementation of the First Amendment of our Constitution met with favorable response and positive action. The Union and Company representatives lauded his outstanding leadership and innovative techniques. We applaud Kentucky's youngest Circuit Judge for his significant contribution of fairness in the decision making process and for his great dedication. (Sponsored by Representative Noe)

Agreed.

Orders of the Day

HB 515 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 515** be passed.

On the roll call the vote was yeas 72-Adams, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Foster, Gay, Guy, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Layman, LeMaster, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Yates. Nays 0.

HB 515 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 515** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 80, with Committee Substitute attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bendl moved the adoption of the Committee Substitute to **HB 80.** Agreed.

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brown, Bruce, Burch, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Hancock, Head, Hines, Holbrook, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Mann, Marcum, May, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Petty, Plummer, Priddy, Richards, P. Richardson, Riner, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 4-W. Allen, DeMarcus, Layman, Van Horn.

HB 80, by way of Committee Substitute, was passed and the title agreed to.

Representative Bendl moved that the vote by which **HB 80,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 253** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 329 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative F. Smith moved that **HB 329** be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McKinney, McNutt, Morris, Nett, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-Noe, B. Richardson, Worthington

HB 329 was passed and the title agreed to.

Representative F. Smith movedthat the vote by which **HB 329** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 135, HB 173, HB 281, HB 5,** and **SB 60** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate.

Orders of the Day (continued)

HB 401 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dietz moved that **HB 401** be passed.

On the roll call the vote was yeas 82-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Johnson, Jones, Kenton, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wilborn, Williams, Wright, Yates. Nays 0.

HB 401 was passed and the title agreed to.

Representative Dietz moved that the vote by which **HB 401** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 423 taken from Orders of the day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 423** be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, McNutt, Nett, Noe, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 5-DeMarcus, Donnermeyer, Kleier, Overstreet, Van Horn.

HB 423 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 423** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 531, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Williams moved the adoption of the Committee Amendment No. 1 to **HB 531.** Agreed.

Representative Williams moved that **HB 531,** as amended, be passed.

On the roll call the vote was yeas 78-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, List, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Wilborn, Williams, Wright, Yates. Nays 4-Petty, Van Horn, Weinberg, Worthington.

HB 531, as amended, was passed and the title agreed to.

Representative Williams moved that the vote by which **HB 531,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 534 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Carpenter moved that **HB 534** be passed.

On the roll call the vote was yeas 82-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright. Nays-0.

HB 534 was passed and the title agreed to.

Representative Carpenter moved that the vote by which **HB 534** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 539 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the adoption of the following Floor AmendmentNo. 1 to **HB 539:**

Amend printed copy of **HB 539** on page 1, in the second paragraph of the preamble, by deleting the words "Neon-Fleming" and substituting therefor: "Fleming-Neon";

and on page 1, line 1, by deleting the words "Neon-Fleming" and substituting therefor the words: "Fleming-Neon".

Agreed.

Representative Weinberg moved that **HB 539,** as amended, be passed.

On the roll call the vote was yeas 83-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, Wilborn, Williams, Worthington, Wright. Nays-0.

HB 539, as amended, was passed.

Representative Weinberg moved the adoption of the following Title Amendment to **HB 539:**

Amend printed copy of **HB 539** on page 1, by wording the Title to read as follows: "AN ACT assigning the classification of the City of Fleming-Neon in Letcher County."

Agreed.

Representative Weinberg moved that the vote by which **HB 539,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 540 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blandford moved that **HB 540** be passed.

On the roll call the vote was yeas 81-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Blandford, Boatwright, Boswell, Brinkley, Brown, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright. Nays-0.

HB 540 was passed and the title agreed to.

Representative Blandford moved that the vote by which **HB 540** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 549 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved that **HB 549** be passed.

On the roll call the vote was yeas 70-Adams, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boatwright, Brinkley, Burch, Burnette, Carpenter, Clapp, Clarke, Crupper, Cyrus, Davenport, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Hancock, Hines, Holbrook, Holloway, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, List, Little, Mann, Marcum, May, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Richards, B. Richardson, Riner, Robinson, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 0.

HB 549 was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 549** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of **HB 563** be deferred and that it retain its position in Orders of the Day. Agreed.

HB 567, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Committee Amendment No. 1 to **HB 567.** Agreed.

Representative B. Richardson moved that **HB 567,** as amended, be passed.

On the roll call the vote was yeas 52-Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Burch, Carpenter, Clapp, Clarke, Craddock, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Guy, Haering, Head, Hines, Holbrook, Holloway, Kenton, Kidd, List, Mann, May, McNutt, Nett, Noe, O'Brien, Petty, Richards, B. Richardson, P. Richardson, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Trevey, Turner, White, Wilborn, Worthington, Wright, Yates. Nays 21-Adams, W. Allen, Boatwright, Brown, Burnette, Crupper, DeFalaise, DeMarcus, Deskins, Gray, LeMaster, Lindsay, Little, Morris, Overstreet, Pearman, Plummer, Riner, R. Smith, Tobin, Van Horn.

HB 567, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 567,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 621 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 621** be passed.

On the roll call the vote was yeas 81-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gay, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Johnson, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, May, McNutt, Nett, Noe, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 2-Fitzgerald, Schmidt.

HB 621 was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 621** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HJR 61, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the adoption of **HJR 61.**

On the roll call the vote was yeas 73-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dunn, Foster, Gay, Gray, Guy, Hancock, Head, Hines, Holbrook, Holloway, Johnson, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, Little, Marcum, May, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Plummer, Richards, B. Richardson, P. Richardson, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 5-W. Allen, Haering, Mann, Schmidt, Trevey.

HJR 61 was adopted and the title agreed to.

Representative Weinberg moved that the vote by which **HJR 61** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HCR 72 taken from Orders of the Day. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Benson moved the adoption of **HCR 72.**

HCR 72 was adopted by voice vote.

SB 165 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 79-Adams, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Marcum, May, McNutt, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, White, Wilborn, Williams, Worthington, Wright, Yates. Nays 3-DeMarcus, Richards, F. Smith.

SB 165 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 165** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 182 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 182** be passed.

On the roll call the vote was yeas 82-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Hurst, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, List, Little, Mann, Marcum, McKinney, Morris, Nett, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Romines, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Wright, Yates. Nays-0.

SB 182 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 182** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 35 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weinberg moved the passage of **SB 35.**

On the roll call the vote was yeas 63-Adams, Bendl, Beshear, Blythe, Boswell, Burch, Burnette, Clarke, Cyrus, Davenport, Dawahare, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Kleier, LeMaster, Lindsay, List, Little, Mann, Marcum, Nett, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Siemens, F. Smith, R. Smith, Stewart, Stone, Tobin, Trevey, Turner, Van Horn, Weinberg, Wilborn, Williams, Worthington, Wright, Yates. Nays-0.

SB 35 was passed and the title agreed to.

Representative Weinberg moved that the vote by which **SB 35** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that consideration of all Bills and Resolutions in Orders of the Day be deferred and that they retain their position. Agreed.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 763, by Representative Mann: AN ACT relating to item pricing.

HB 764, by Representative Marcum: AN ACT relating to family rehabilitation homes.

HB 765, by Representative B. Richardson: AN ACT relating to the practice of chiropractic.

HB 766, by Representatives Benson, Kleier, Bennett, Bendl, Burch, Hines, Kidd, Priddy, Siemens, Romines, Williams and Yates: AN ACT relating to an authority having power to acquire, maintain, improve, expand, develop and operate Churchill Downs.

HB 767, by Representative Benson: AN ACT relating to income tax credits.

HJR 108, by Representative Donnermeyer: A JOINT RESOLUTION authorizing and directing the creation of a Workmen's Compensation Committee.

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following bill.

Business Organizations and Professions: **HB 766.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 681, SB 316, HB 758.**

Business Organizations and Professions: **HB 766.**

Education: **HB 564, HB 754.**

Cities: **HB 430.**

Highways and Traffic Safety: **HCR 49.**

Labor and Industry: **HB 703, HB 716, HB 721, HB 759, SB 191.**

Report of Committees

The Committee on Labor and Industry reported **HB 634** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 634, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.096 is amended to read as follows:

As used in this chapter unless the context clearly requires otherwise:

(1) "Rate of insured unemployment" means the percentage derived by dividing:

(a) The average weekly number of workers filing claims in this state for weeks of unemployment with respect to the most recent 13-consecutive-week period, as determined by the secretary on the basis of his report to the U.S. Secretary of Labor, by

(b) The average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the end of such 13-week period. Such computations shall be made by the secretary, in accordance with regulations prescribed by the U.S. Secretary of Labor.

(2) "Regular benefits" means benefits payable to a worker under this chapter or under an unemployment compensation law of any other state (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits and additional benefits.

(3) "Extended benefits" means benefits (including benefits payable to federal civilian employes and to ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to a worker under the provisions of KRS 341.700 to 341.740 for weeks of unemployment in his eligibility period.

(4) "Additional benefits" means benefits payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law.

(5) "Eligibility period" of a worker means the period consisting of the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

(6) "Exhaustee" means a worker who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were available to him under this chapter or any other state law (including dependents' allowances and benefits payable to federal civilian employes and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; provided, that, for the purposes of this paragraph, an individual shall be deemed to have received all of the regular benefits that were available to him although, as a result of a pending appeal with respect to wages and/or employment that were not considered in the original monetary determination in his benefit year, he may subsequently be determined to be entitled to added regular benefits; or

(b) His benefit year having expired prior to such week, has no, or insufficient, wages and/or employment on the basis of which he could establish a new benefit year that would include such week; and

(c) *Has no right to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act or under such other Federal laws as are specified in regulations issued by the U.S. Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of Canada or the Virgin Islands; but if the individual is seeking such benefits and the appropriate agency finally determines that the individual is not entitled to benefits under such law, the individual shall be considered an exhaustee if the other provisions of this definition are met: Provided, That, the reference in this subparagraph to the Virgin Islands shall be inapplicable effective on the day on which the U.S. Secretary of Labor approved under section 3304(a) of the Internal Revenue Code of 1954, an unemployment compensation law submitted to the U.S. Secretary of Labor by the Virgin Islands for approval.* [Has no right to unemployment benefits or allowances under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, the Automotive Products Trade Act of 1965 and such other federal laws as are specified in regulations issued by the U.S. Secretary of Labor; and has not received and is not seeking unemployment benefits under the unemployment compensation law of the Virgin Islands or of Canada; but if he is seeking such benefits and the appropriate agency finally determines that he is not entitled to benefits under such law he is considered an exhaustee.]

Section 2. KRS 341.020 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Fund" means the unemployment insurance fund established by KRS 341.490, to which all contributions, and from which all benefits shall be paid;

(2) "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico, [and] the Dominion of Canada *and Virgin Islands*;

(3) "Contributions" means the money payments, exclusive of interest and penalties, to the unemployment insurance fund required by this chapter and by any previous unemployment compensation law of this state; and

(4) "Benefits" means the money payments payable to a worker under this chapter and under any previous unemployment compensation law of this state with respect to his unemployment.

Section 3. KRS 341.030 is amended to read as follows:

(1) As used in this chapter, unless the context clearly requires otherwise, and except as provided in subsections (2) to *(6)* [(7)] of this section, "wages" means all remuneration for services, including commissions, bonuses, and, *except for services performed in agriculture and domestic employment,* the cash value of all remuneration in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the commission.

(2) Amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses, incurred on the business of the employing unit, constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the worker to his employer.

(3) Gratuities and tips customarily received by a worker in the course of his employment from persons other than his employing unit do not constitute wages *but only if the employing unit does not:*

(a) Determine the distribution; or

(b) Take into accounting to determine wages; or

(c) Impose or require such tips from other persons.

(4) "Wages" does not include the amount of any payment made to, or on behalf of, a worker under a plan or system established by an employing unit that makes provision for its workers generally or for a class of its workers, including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment, on account of:

(a) Retirement;

(b) Sickness or accident disability;

(c) Medical and hospitalization expenses in connection with accident or sickness disability; or

(d) Death, if the worker has not:

1. The option to receive, instead of provision for such death benefit, any part of the payment, or if such death benefit is insured, any part of the premiums or contributions to premiums paid by his employing unit, and

2. The right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit, or to receive a cash consideration in lieu of it either upon his withdrawal from the plan or system providing for such benefit or upon termination of such plan or system or policy of insurance or of his employment with such employing unit.

(5) "Wages" does not include the amount of any payment made by an employing unit without deduction from the remuneration of the worker of the tax imposed under section 3101 of the [federal] Internal Revenue Code.

(6) "Wages" does not, for the purposes of KRS 341.260 to 341.290, include that part of remuneration which, after wages equal to *six thousand* [forty-two hundred] dollars have been paid in a calendar year to a worker by a subject employer or his predecessor with respect to covered employment during any calendar year, is paid to such worker by such subject employer during such calendar year unless that part of the wages is subject to a tax under a federal law, imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purpose of this subsection, the term "covered employment" shall include service constituting covered employment under any unemployment compensation law of another state.

[(7) "Wages" does not, for the purpose of KRS 341.390 or subsection (3) of KRS 341.080, include bonus money received for work done during a previous period in time.]

Section 4. KRS 341.050 is amended to read as follows:

(1) As used in this chapter, unless the context clearly requires otherwise and subject to the provisions of KRS 341.055, "covered employment" means service, including service in interstate commerce, performed by:

(a) An individual who, under the usual common law rules applicable in determining the employer-employe relationship, has the status of an employe;

(b) An officer of a corporation;

(c) An individual who performs service for remuneration for any employing unit:

1. As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages (other than milk), or laundry or dry-cleaning services, for his principal; or

2. As a traveling or city salesman, other than as an agent-driver or commission-driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal (except for side-line sales activities on behalf of some other person) of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations; Provided, that for purposes of this paragraph, the term "covered employment" shall include services described in subparagraphs 1. and 2. above only if the contract of service contemplates that substantially all of the services are to be performed personally by such individual; such individual does not have a substantial investment in facilities used in connection with the performance of the services (other than in facilities for transportation); and the services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed;

(d) *Except as provided in KRS 341.055(4),* an individual in the employ of this state or any of its instrumentalities *or any political subdivision or municipality thereof or any of its instrumentalities or any instrumentality of more than one of the foregoing or any instrumentality of any of the foregoing and one or more other states or political subdivisions or municipalities,* [(or in the employ of this state and one or more other states or their instrumentalities) for a hospital or institution of higher education located in this state] provided that such service is excluded from "employment" as defined in the *Internal Revenue Code* [Federal Unemployment Tax Act] solely by reason of section 3306 (c) (7) of *the Code but only when such service is required to be "covered employment" under this chapter by reason of Section 3309 of the Internal Revenue Code, as amended, as a requirement of Section 3304 of that Code, as amended, for approval of the state's Unemployment Insurance Law* [that Act]; or

(e) An individual in the employ of a religious, charitable, educational or other organization but only if the following conditions are met:

1. The service is excluded from "employment" as defined in the *Internal Revenue Code* [Federal Unemployment Tax Act] solely by reason of section 3306 (c) (8) of that *Code but only when such service is required to be "covered employment" under this chapter by reason of Section 3309 of the Internal Revenue Code, as amended, as a requirement of Section 3304 of that Code, as amended, for approval of the state's Unemployment Insurance Law* [Act]; and

2. The organization had four or more individuals in employment for some portion of a day in each of twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time*; or*

(f) An individual in the employ of an employing unit performing agricultural service, as defined in Section 3306(k) of the Internal Revenue Code, if either of the following conditions are met:

1. The employing unit paid wages of twenty thousand dollars or more in a calendar quarter in either the current or preceding calendar year for service performed in agricultural labor; or

2. The employing unit employed for some portion of a day in each of twenty different calendar weeks, whether or not such weeks are consecutive, ten or more workers (irrespective of whether the same workers were in employment in each of such weeks) performing service in agricultural labor; or

(g) An individual in the employ of an employing unit performing domestic service in a private home, a local college club, or a local chapter of a college fraternity or sorority if the employing unit paid wages of one thousand dollars or more in a calendar quarter in either the current or preceding calendar year for service performed in domestic employment; or

(h) An individual's service described in paragraphs (e) or (f) or (g) of this subsection, has not ceased to be covered employment under paragraph (c) of subsection (3) of KRS 341.250.

(2) The term "covered employment" shall include:

(a) An individual's entire service, performed within, or both within and without, this state if the service is localized in this state. Service shall be deemed to be localized within a state if:

1. The service is performed entirely within such state; or

2. The service is performed both within and without such state but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions.

(b) An individual's entire service, wherever performed within the United States, the Virgin Islands or Canada, if:

1. Such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada; and

2. The place from which the service is directed or controlled is in this state.

(c) The service of an individual who is a citizen of the United States, performed outside the United States (except in Canada [or the Virgin Islands]), in the employ of an American employer (other than service which is deemed "covered employment" under the provisions of paragraphs (a) or (b) of this subsection or the parallel provisions of another state's law), if:

1. The employer's principal place of business in the United States is located in this state; or

2. The employer has no place of business in the United States, but

a. The employer is an individual who is a resident of this state; or

b. The employer is a corporation which is organized under the laws of this state; or

c. The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

3. None of the criteria of subparagraphs 1. and 2. of this paragraph is met but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the law of this state.

4. An "American employer", for purposes of this paragraph, means:

a. An individual who is a resident of the United States; or

b. A partnership if two-thirds or more of the partners are residents of the United States; or

c. A trust, if all of the trustees are residents of the United States; or

d. A corporation organized under the laws of the United States or of any state.

5. The term "United States", for the purposes of this subsection, includes the States, the District of Columbia, [and] the Commonwealth of Puerto Rico, *and the Virgin Islands.*

(d) Service performed by an officer or member of the crew of an American vessel or American aircraft on or in connection with such vessel or such aircraft, if the operating office, from which the operations of such vessel operating on navigable waters within, or the operation of such aircraft within or the operations of such vessel or such aircraft, within or without, the United States are ordinarily and regularly supervised, managed, directed and controlled is within this state.

(3) Notwithstanding any other provisions of this section or any of the provisions of KRS 341.055, the term "covered employment" shall also include service with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under this chapter.

(4) For the purpose of this chapter, if the services performed during one-half 1/2 or more of any pay period by an individual for the employing unit employing him constitutes covered employment, all the services of such individual for such period shall be deemed to be covered employment; but if the services performed during more than one-half of any such pay period by an individual for the employing unit employing him do not constitute covered employment, then none of the services of such individual for such period shall be deemed to be covered employment. As used in this subsection, the term "pay period" means a period (of not more than thirty-one consecutive days) for which a payment for service is ordinarily made to the individual by the employing unit employing him. This subsection shall not be applicable with respect to services performed in a pay period by an individual for the employing unit employing him, when any of such service is excluded because it is subject to an unemployment insurance program established by an act of congress.

Section 5. KRS 341.055 is amended to read as follows:

Unless the employing unit thereof has elected that such services become covered employment under the provisions of subsection (3) or (4) of KRS 341.250, "covered employment" shall not include:

(1) Service performed in agricultural labor, as defined in section 3306 (k) of the *Internal Revenue Code, but only if such service is not defined as "covered employment" in paragraphs (f) and (h) of subsection (1) of KRS 341.050; or agricultural service performed prior to January 1, 1980 by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act* [Federal Unemployment Tax Act];

(2) Domestic service in a private home, a local college club, or local chapter of a college fraternity or sorority *but only if such service is not defined as "covered employment" in paragraphs (g) and (h) of subsection (1) of KRS 341.050;*

(3) Service [performed] in the employ of *an organization described in paragraphs (e) of subsection (1) of KRS 341.050 but only if such service is not defined as "covered employment" in paragraphs (e) and (h)* [this state, or any of its political subdivisions or municipalities, except as provided in paragraph (d)] of subsection (1) of KRS 341.050;

(4) Certain service performed in the employ of this state or any of its political subdivisions or municipalities or instrumentalities thereof but only if such service is performed by an individual in the exercise of his or her duties:

(a) As a public elected official; or

(b) As a member of a legislative body of this state or a political subdivision thereof; or

(c) As a member of the judiciary of this state or political subdivision thereof; or

(d) As a member of the state National Guard or Air National Guard; or

(e) As an employe serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or

(f) In a position which, under or pursuant to the state law is designated as a major nontenured policymaker or advisory position, or a policymaking or advisory position the performance of the duties of which ordinarily does not require more than eight hours per week.

(5) [(4)] Except as provided in paragraph (d) of subsection (1) of KRS 341.050 service performed in the employ of any other state or any political subdivision thereof, or of the United States Government or an instrumentality of the United States exempt by federal law from the contributions imposed by this chapter, except that to the extent that the Congress of the United States shall permit states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment insurance law, all the provisions of this chapter shall be applicable to such instrumentalities, and to services performed for such instrumentalities, in the same manner, to the same extent and on the same terms as to all other employing units, individuals and services; provided that if this state shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the *Internal Revenue Code* [Federal Unemployment Tax Act], the payments required of such instrumentalities with respect to such year shall be refunded from the fund in the same manner and within the same period as is provided in KRS 341.330 with respect to contributions erroneously collected;

(6) [(5)] Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress. The commissioner may enter into agreements with the proper agencies under such Act of Congress to provide reciprocal treatment to workers who have, after acquiring potential rights to benefits under this chapter, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this chapter;

(7) [(6)] Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his father or mother;

(8) [(7)] Service performed in the employ of a foreign government (including service as a consular, or other officer or employe or a nondiplomatic representative), or of an instrumentality wholly owned by a foreign government if:

(a) The service is of a character similar to that performed in foreign countries by employes of the United States government or of an instrumentality thereof, and

(b) The secretary finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employes of the United States government and of instrumentalities thereof;

(9) [(8)] Service performed as a student nurse in the employ of a hospital or a nurses' training school by a worker who is enrolled and is regularly attending classes in a nurses' training school chartered or approved pursuant to the laws of this state; and service performed as an intern in the employ of a hospital by a worker who has completed a four years' course in a medical school chartered or approved pursuant to the laws of this state;

(10) [(9)] Service performed by a worker for an employing unit as an insurance agent or as an insurance solicitor, if all such service performed by such worker for such employing unit is performed for remuneration solely by way of commission;

(11) [(10)] Service performed by a worker under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution;

(12) [(11)] Service not in the course of the employing unit's trade or business performed in any calendar quarter by a worker, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employing unit to perform such service. For the purpose of this subsection, an individual shall be deemed to be regularly employed by an employing unit during a calendar quarter only if:

(a) On each of some twenty-four days during such quarter such individual performs for such employing unit for some portion of the day service not in the course of the employing unit's trade or business, or

(b) Such individual was regularly employed (as determined under paragraph (a) above) by such employing unit in the performance of such service during the preceding calendar quarter;

(13) [(12)] Service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501 (a) of the [Federal] Internal Revenue Code (other than an organization described in section 401 (a)), or under section 521 of the [Federal] Internal Revenue Code, if the remuneration for such service is less than fifty dollars;

(14) [(13)] Service performed in the employ of an international organization;

(15) [(14)] Service covered by an election duly approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement pursuant to KRS 341.145 during the effective period of such election;

(16) [(15)] Service performed in the employ of a school, college, or university, if such service is performed:

(a) By a student who is enrolled and is regularly attending classes at such school, college or university, or

(b) By the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that:

1. The employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and

2. Such employment will not be covered by any program of unemployment insurance;

(17) [(16)] Service performed by an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers;

(18) [(17)] Service performed in the employ of a hospital, if such service is performed by a patient of the hospital, as defined in KRS 341.067;

(19) [(18)] Service performed in the employ of a church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(20) [(19)] Service defined in KRS 341.050 (1) (d) and (e) performed in [the employ of a school which is not an institution of higher education; or in] a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market by an individual receiving such rehabilitation or remunerative work; or *in a custodial or penal institution by an inmate of such institution* as part of an employment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution.

(21) Service performed as a participant in a work-relief or work-training program financed in whole or in part under a Federal Law which service is not required to be covered under this chapter pursuant to such Federal Law, rules or regulations thereof.

Section 6. KRS 341.060 is amended to read as follows:

(1) As used in this chapter, unless the context clearly requires otherwise, "employing unit" means any individual or type of organization, including any partnership, association, society, trust, estate, joint-stock company, corporation, insurance company, whether any of these are domestic or foreign, or the receiver, trustee in bankruptcy, trustee [or successor thereof,] or the legal representative of a deceased person, or this state or any department, division, administrative unit, political subdivision or municipality thereof, which has or subsequent to January 1, 1936, had one or more workers performing services for it within this state, or one or more workers performing services for it in covered employment in any state, *or any successor to any employing unit defined in this subsection.*

(2) All workers performing service within this state for any employing unit which maintains two (2) or more separate establishments within this state shall be deemed to be employed by a single employing unit for all purposes of this chapter.

Section 7. KRS 341.067 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Hospital" means an institution which has been licensed, certified or approved by the secretary for human resources as a hospital.

(2) "Institution of higher education" means an educational institution which:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(b) Is legally authorized in this state to provide a program of education beyond high school;

(c) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

(d) Is a public or other nonprofit institution.

(3) Notwithstanding any of the foregoing provisions of this section, all recognized colleges and universities in this state are institutions of higher education for purposes of this chapter.

(4)(a) "Educational institution", including an institution of higher education as defined in subsection (2) of this section, means:

1. A school in which participants, trainees, or students are offered an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor(s) or teacher(s);

2. It is approved, licensed or issued a permit to operate as a school by the state department of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school; and

3. The courses of study or training which it offers may be academic, technical, trade, or preparation for gainful employment in a recognized occupation.

(b) In any particular case, the question of whether or not an institution is an educational institution within the meaning of the criteria described above will depend on what that particular institution actually does.

SECTION 8. A NEW SECTION OF KRS CHAPTER 341 IS CREATED OT READ AS FOLLOWS:

For the purpose of this chapter, a governmental entity is:

(1) The state government of the Commonwealth of Kentucky and its instrumentalities or a governmental unit thereof as provided for in KRS 341.060;

(2) A county government and its instrumentalities;

(3) A city or municipal government and its instrumentalities;

(4) A city-county urban (merged) government and its instrumentalities;

(5) A public school district and its instrumentalities;

(6) An independent governmental organization established pursuant to Kentucky Revised Statutes or by executive order of the Governor;

(7) A joint operation of two or more of the units defined in subsections (1) through (6) above;

(8) A joint operation of one or more of the units defined in subsections (1) through (7) above with another state or a political subdivision or instrumentality thereof;

(9) An employing unit which has service performed in covered employment pursuant to KRS 341.050(d) which is not defined as a governmental entity in subsections (1) through (8) of this section is a governmental entity under this subsection.

Section 9. KRS 341.070 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise, "subject employer" means:

(1) Any employing unit which in any calendar quarter in either the current or preceding calendar year paid for service in covered employment wages of fifteen hundred dollars or more.

(2) Any employing unit which for some portion of a day in each of twenty different calendar weeks, whether or not such weeks are consecutive, in either the current or the preceding calendar year, had in covered employment at least one worker (irrespective of whether the same worker was in employment in each such day).

(3) Any employing unit for which service in covered employment, as defined in paragraph (d) of subsection (1) of KRS 341.050, is performed.

(4) Any employing unit for which service in covered employment, as defined in paragraph (e) *or (h)* of subsection (1) of KRS 341.050, is performed.

(5) Any employing unit for which service in covered employment, as defined in paragraph (f) or (h) of subsection (1) of KRS 341.050, is performed.

(6) Any employing unit for which service in covered employment, as defined in paragraph (g) or (h) of subsection (1) of KRS 341.050, is performed.

(7) [(5)] Any employing unit that succeeds to or acquires the organization, trade, or business, or substantially all of the assets of another employing unit which at the time of such succession or acquisition is a subject employer; or which succeeds to or acquires a portion of the organization, trade, or business of another employing unit, which portion, if treated as a separate employing unit, would be, at the time of the succession or acquisition, a subject employer under subsections (1), [or] (2) *or (5)* of this section.

(8) [(6)] Any employing unit for which service is or was performed with respect to which such employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment fund; or which, as a condition for approval of this chapter for full tax credit

against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such Act, to be a "subject employer" under this chapter.

(9) [(7)] Any employing unit which has elected to become subject to this chapter, pursuant to subsection (3) [or (4)] of KRS 341.250.

(10) [(8)] For purposes of subsections (1) *through (6)* [, (2) and (4)] of this section, covered employment shall include service which would constitute covered employment but for the fact that such service is deemed to be performed entirely within another state pursuant to an election under an arrangement entered into (in accordance with KRS 341.145) by the secretary and an agency charged with the administration of any other state or federal unemployment compensation law.

(11) [(9)] Any employing unit which, having become a subject employer under subsections (1) *through (9)* [to (7)] of this section, has not ceased to be a subject employer under KRS 341.250.

(12) [(10)] For purposes of subsections (2), [and] (4) *and (5)* of this section, if any week includes both December 31 and January 1, the days of that week up to January 1 shall be deemed one calendar week and the days beginning January 1 another week.

(13) [(11)] Notwithstanding the provisions of this section or any other provision of this chapter, no employing unit shall be initially determined a subject employer on the basis of covered employment performed more than five calendar years prior to the year in which such determination is made, unless the secretary can show that the records of such employment experience were fraudulently concealed or withheld for the purpose of escaping liability under this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of this chapter, "previously uncovered wages" means wages paid to a worker during his base-period for service performed prior to January 1, 1978 which is defined in section 121 of the Unemployment Compensation Amendments of 1976, Public Law 94-566, as "previously uncovered services".

(2) Benefit payments attributable to wages for previously uncovered wages shall not be chargeable to employer reserve accounts, or to the pool account or to employers for payments in lieu of contributions under this chapter to the extent that such benefit payments are reimbursable under provisions of federal law.

Section 11. KRS 341.094 is amended to read as follows:

As used in this chapter, unless the context clearly requires otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after whichever of the following weeks occurs first:

1. A week for which there is a national "on" indicator, or

2. A week for which there is a state "on" indicator; and

(b) Ends with either of the following weeks, whichever occurs later:

1. The third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or

2. The thirteenth consecutive week of such period; provided, that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week following the end of a prior extended benefit period which was in effect with respect to this state.

(2) There is a "national 'on' indicator" for a week if the U. S. Secretary of Labor determines that for *the period consisting of such week and the immediately preceding twelve weeks* [each of the three most recent completed calendar months ending before such week], the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded 4.5 percent.

(3) There is a "national 'off' indicator" for a week if the U. S. Secretary of Labor determines that for *the period consisting of such week and the immediately preceding twelve weeks* [each of the three most recent completed calendar months ending before such week], the rate of insured unemployment (seasonally adjusted) for all states was less than 4.5 percent.

(4) There is a "state 'on' indicator" for this state for a week if the secretary determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

(a) Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and

(b) Equaled or exceeded 4 percent.

(5) There is a "state 'off' indicator" for this state for a week if, *for the period consisting of such week and the immediately preceding twelve weeks, either paragraph (a) or (b) of subsection (4) of this section was not satisfied.* [the secretary determines, in accordance with the regulations of the U. S. Secretary of Labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) under this chapter:

(a) Was less than 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, or

(b) Was less than 4 percent.]

(6)(a) Effective with respect to benefits for weeks of unemployment beginning after June 30, 1978 the determination of whether there has been a state "on" or "off" indicator beginning or ending any extended benefit period shall be made under this subsection as if (i) subsection (4) did not contain paragraph (a) thereof, and (ii) the figure "4" contained in subparagraph (b) thereof were "5".

(b) Provided, further that any week for which there would otherwise be a state "on" indicator as provided under subsection (4) without application of the 5 percent figure provided herein shall continue to be such a week and shall not be determined to be a week for which there is a state "off" indicator.

Section 12. KRS 341.100 is amended to read as follows:

(1) In determining for any purpose under this chapter whether or not any work is suitable for a worker the secretary shall consider, among other pertinent conditions, the degree of risk involved to his health, safety and morals; his physical fitness and prior training; his experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation; and the distance of the available work from his residence.

(2) For the purpose of this chapter, no work shall be suitable [and neither waiting period credit] nor *shall* benefits [shall] be denied under this chapter to any otherwise eligible worker for refusing to accept new work or new conditions of work under one or more of the following:

(a) If the position offered is vacant due directly to a strike, lock-out or other labor dispute;

(b) If the wages, hours, or other conditions of the work offered are substantially less favorable than those prevailing for similar work in the locality;

(c) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization;

(d) If the acceptance of such work would be prejudicial to the continuance of an established employer-employe relationship to which the worker is a party.

Section 13. KRS 341.220 is amended to read as follows:

(1) In the administration of this chapter, the secretary shall:

(a) To the fullest extent consistent with the provisions of this chapter, cooperate with the Federal Department of Labor;

(b) Make such reports in such form and containing such information as such agency may from time to time require;

(c) Comply with such provisions as such agency may from time to time find necessary to assure the correctness and verification of such reports; and

(d) Comply with the provisions of Title III of the Social Security Act relating to the expenditure of such funds as may be allotted and paid to this state for the purpose of assisting in the administration of this chapter.

(2) Upon request therefor the secretary shall furnish to any agency of this or any other state or the United States charged with the administration of public works or assistance, through public employment or otherwise, the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this chapter.

(3) The secretary may make records relating to the administration of this chapter available to the Railroad Retirement Board and may furnish the Railroad Retirement Board, at the expense of that board, as many copies thereof as the board requests.

(4) The secretary may afford reasonable cooperation, including reciprocal collection of contributions by the enforcement of foreign judgments, with every agency of any state or of the United States charged with the responsibility of administering an unemployment insurance law.

(5) The secretary shall require employment offices in this state, upon request of a public agency administering or supervising the administration of a state plan approved under part A of Title IV of the Social Security Act or of a public agency charged with any duty or responsibility under any program or activity authorized or required under part D of Title IV of such Act, shall, and, notwithstanding any other provision of law, is hereby authorized to furnish to such agency making the request, from any data contained in the files of any such employment office, information with respect to any individual specified in the request as to (a) whether such individual is receiving, has received, or has made application for unemployment compensation, and the amount of any such compensation being received by such individual; (b) the current (or most recent) home address of such individual; and (c) whether such individual has refused an offer of employment, and, if so, a description of the employment so offered and terms, conditions, and rate of pay therefor.

Section 14. KRS 341.250 is amended to read as follows:

(1) Any employing unit that becomes subject to this chapter within any calendar year shall be considered a subject employer during the whole of that calendar year, except as specifically provided elsewhere in this section or this chapter.

(2) Except as provided in subsections (3) [, (4)] and *(5)* [(6)] of this section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the division, on or before the fifteenth day of April of that year, a written application for termination of coverage, and the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under KRS 341.070. The secretary may, however, after notifying such employer in writing at his last known address, terminate the coverage of any subject employer as of the first day of January of any calendar year if such subject employer has had no individuals in covered employment in this state at any time during the three preceding calendar years, and the balance of such employer's reserve account may be immediately transferred to the pooled account.

(3)(a) Any employing unit not otherwise subject to this chapter that files with the department its written election to become a subject employer for not less than two calendar years shall, with the written approval of such election by the secretary, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if on or before April 15 of such year, it has filed with the department a written notice to that effect.

(b) Any employing unit for which services that do not constitute covered employment are performed, may file with the department a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be considered to constitute covered employment by a subject employer for all the purposes of this chapter for not less than two calendar years. Upon written approval of such election by the secretary, such services shall be considered to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be considered covered employment subject hereto as of January 1 of a calendar year subsequent to such two calendar years, only if on or before April 15 of such year such employing unit has filed with the division a written notice to that effect.

(c) Any employing unit having service performed in covered employment solely by reason of paragraph (h) of subsection (1) of KRS 341.050 may terminate such service as "covered employment" as of the first day of January of any calendar year if such service does not meet the provisions of paragraphs (e), (f) or (g) but only if on or before April 15 of such year, the employing unit has filed with the department a written request to terminate service as "covered employment."

[(4)(a) Any political subdivision of this state may elect to make subject to this chapter for not less than two calendar years service performed by employes in all of the hospitals and institutions of higher education, as defined in KRS 341.067, operated by such political subdivision. Such election may be made by filing with the secretary a notice thereof at least thirty days prior to the effective date of such election. Any political subdivision electing coverage under this subsection shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in KRS 341.275 and 341.281.

(b) An election under this subsection may be terminated as of January 1 of any calendar year subsequent to such two calendar years, by filing with the secretary written notice not later than thirty days preceding the last day of the calendar year in which the termination is to be effective. Such termination shall become effective as of the first day of the next ensuing calendar year with respect to services performed after that date.]

(4) [(5)] An employing unit that becomes a subject employer under subsection (5) of KRS 341.070, shall become subject as of the date of acquisition.

(5) [(6)] Notwithstanding the provisions of subsections (1), (2), and (3) of this section any subject employer whose entire reserve account has been transferred to a successor in interest as provided for in KRS 341.540 shall immediately cease to be a subject employer and shall thereafter become a subject employer only upon his future employment experience.

Section 15. KRS 341.270 is amended to read as follows:

(1) Each subject employer's contribution rate shall be two and seven-tenths percent except as otherwise provided in this section.

(2) No subject employer's contribution rate shall be less than two and seven-tenths percent unless benefits were chargeable to his account with respect to the thirty-six consecutive months immediately preceding the computation date.

(3) [Except as otherwise provided in this section.] For the calendar year *1978* [1972] and each calendar year thereafter, employer contribution rates shall be determined in accordance with "Table A" set out

in subsection (4) of this section. *For* [; provided that for the calendar year 1972 such rates shall not exceed those set out in "Column (A)" and for the calendar year 1973 shall not exceed those set out in "Column (B)." Prior to] each calendar year, the secretary shall determine *the fund solvency factor,* as of the 31st day of October *immediately preceding the calendar year for which contribution rates are determined,* [the fund solvency factor] by dividing the "benefit cost rate" into the "statewide reserve rate." If such factor:

(a) Equals or exceeds 1.8, the rates listed in "Schedule A" of "Table A" shall be in effect.

(b) Equals or exceeds *1.5* [1.50] but is less than *1.8* [1.80], the rates listed in "Schedule B" of "Table A" shall be in effect.

(c) Equals or exceeds 1.2 but is less than 1.5, the rates listed in "Schedule C" of "Table A" shall be in effect.

(d) Equals or exceeds 1.0 but is less than *1.2* [1.20], the rates listed in "Schedule D" of "Table A" shall be in effect.

(e) *Equals or exceeds 0.8 but is less than 1.0, the rates listed in "Schedule E" or "Table A" shall be in effect.* [Is less than 1.0, no subject employer's contribution rate shall be less than two and seven-tenths percent and the contribution rate for any subject employer whose individual reserve ratio as of the computation date is less than zero (because benefits have been charged in excess of contributions) shall be four and two-tenths percent.]

(f) Equals or exceeds 0.4 but is less than 0.8, the rates listed in "Schedule F" of "Table A" shall be in effect.

(g) Less than 0.4, the rates listed in "Schedule G" of "Table A" shall be in effect.

(4) For the calendar year, *1978* [1972] and each calendar year thereafter, contribution rates shall be determined upon the basis of an individual employer's reserve ratio as of the computation date and the schedule of rates established under subsection (3) of this section. Except as otherwise provided in this section, the contribution rate for each subject employer for the calendar year immediately following the computation date shall be the rate in that "Schedule" of "Table A", as set out below, effective with respect to such calendar year, which appears on the same line as his reserve ratio as shown in the "Employer Reserve Ratio" column of the same table.

TABLE A
Rate Schedule

Employer Reserve Ratio	A	B	C	D	E	F	G
6.0% and over	0.1%	0.2%	0.3%	0.4%	0.5%	1.0%	1.3%
5.0% but under 6.0%	0.2%	0.3%	0.4%	0.5%	0.6%	1.3%	1.6%
4.6 but under 5.0%	0.3%	0.4%	0.5%	0.6%	0.7%	1.6%	1.9%
4.2% but under 4.6%	0.4%	0.5%	0.6%	0.8%	1.2%	1.9%	2.2%
3.9% but under 4.2%	0.5%	0.6%	0.8%	1.0%	1.5%	2.2%	2.5%
3.6% but under 3.9%	0.6%	0.7%	1.0%	1.4%	2.1%	2.5%	2.7%
3.2% but under 3.6%	0.7%	1.0%	1.5%	2.0%	2.6%	2.6%	2.7%
2.7% but under 3.2%	0.8%	1.3%	2.0%	2.5%	2.7%	2.7%	2.7%
2.0% but under 2.7%	1.0%	1.7%	2.5%	2.7%	2.7%	2.7%	2.7%
1.3% but under 2.0%	1.5%	2.1%	2.7%	2.7%	2.7%	2.7%	2.7%
0.0% but under 1.3%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%
-4.0% but under 0.0%	3.0%	3.2%	3.7%	4.0%	4.2%	4.8%	6.0%
-8.0% but under -4.0%	3.5%	3.7%	4.0%	4.2%	4.4%	5.0%	6.2%
Less than -8.0%	4.0%	4.4%	4.6%	4.8%	5.0%	5.5%	6.4%

Employer Reserve Ratio	Rate Schedule (A)	Rate Schedule (B)	Rate Schedule (C)	Rate Schedule (D)
6.0% and over	0.1%	0.2%	0.3%	0.4%
5.0% but under 6.0%	0.2%	0.3%	0.6%	0.8%
4.6% but under 5.0%	0.3%	0.6%	0.9%	1.2%
4.2% but under 4.6%	0.5%	0.8%	1.2%	1.6%
3.9% but under 4.2%	0.8%	1.0%	1.5%	2.1%
3.6% but under 3.9%	1.0%	1.3%	1.8%	2.4%
3.2% but under 3.6%	1.3%	1.6%	2.0%	2.6%
2.7% but under 3.2%	1.6%	2.0%	2.2%	2.7%
2.0% but under 2.7%	2.0%	2.2%	2.4%	2.7%
1.3% but under 2.0%	2.4%	2.5%	2.7%	2.7%
0.0% but under 1.3%	2.7%	2.7%	2.7%	2.7%
-5.0% but under 0.0%	3.0%	3.2%	3.5%	3.7%
Less than -5.0%	3.2%	3.5%	3.7%	4.0%

(5) As used in this section and elsewhere in this chapter, unless the context clearly requires otherwise:

(a) "Trust fund balance" means the amount of money in the Unemployment Insurance Fund. In determining the amount in the fund as of a given date all money received by the department as of such date shall be considered as being in the fund on such date.

(b) "Total wages" means all remuneration for services, as defined in subsections (1) to (5) of KRS 341.030, paid by subject employers.

(c) "Statewide reserve rate" means the percentage ratio obtained by dividing the total wages for the four calendar quarters ending on the 30th day of September, which have been reported to the department on or before the immediately following 31st day of October, into the "trust fund balance" as of that same date.

(d) "Benefit cost rate" means the percentage ratio obtained by dividing the total amount of benefits paid during the highest twelve consecutive calendar-month period since 1956 by the total wages reported to the department for the four (4) quarters ending immediately prior to the end of such twelve-month period.

(e) An employer's "reserve ratio" means the percentage ratio of his reserve account balance as of the computation date to his taxable payrolls for the thirty-six months last preceding such computation date.

(f) An employer's "reserve account balance" means the amount by which contributions credited to his reserve account exceed benefits charged to such account. If benefits charged to an account exceed contributions credited to such account as of the computation date, such account shall be considered as having a debit balance and a reserve ratio of "less than zero."

(g) "Computation date" means the date, occurring at least once in each calendar year and within twenty-seven weeks prior to the effective date of new rates of contributions, as of which individual employer contribution rates are computed. The secretary shall by regulation prescribe the computation date.

Section 16. KRS 341.275 is amended to read as follows:

(1) For the purpose of this section, a nonprofit organization is an organization (or group of organizations) described in section 501 (c) (3) of the U.S. Internal Revenue Code which is exempt from income tax under section 501 (a) of such code. For the purpose of this Section "Division" shall mean the Department for Human Resources, "Commissioner" and "Commission" shall mean the Secretary for Human Resources.

(2) Any nonprofit organization which, pursuant to KRS 341.070 (4), is, or becomes, a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay to the department for the fund an amount equal to the amount of regular benefits and of one-half (1/2) of the extended benefits paid to workers for weeks of unemployment that is attributable to service in the employ of such nonprofit organization, performed during the effective period of such election.

(a) Any nonprofit organization which is, or becomes, a subject employer on July 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than the remainder of 1972 and the calendar year of 1973, provided it files with the department a written notice of its election within the thirty-day period immediately following such date.

(b) Any nonprofit organization which becomes a subject employer after July 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than the period of subjectivity during the year in which such subjectivity begins and the following calendar year by filing a written notice of its election with the department not later than thirty days immediately following the date of the determination of such subjectivity.

(c) Any nonprofit organization which makes an election in accordance with paragraph (a) or paragraph (b) of this subsection will continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty days prior to the beginning of the calendar year for which such termination shall first be effective *except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.*

(d) Any nonprofit organization which has been paying contributions under this chapter for a period subsequent to July 1, 1972 may change to a reimbursable basis by filing with the department not later than thirty days prior to the beginning of any calendar year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by such organization for that and the following year.

(e) The secretary may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(f) The secretary shall notify each nonprofit organization of any determination which may be made of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Such determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(3) Payments in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each calendar quarter the department shall bill each nonprofit organization (or group of such organizations) which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service *performed in covered employment* in the employ of such organization.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any nonprofit organization under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the organization.

(d) The amount due specified in any bill from the secretary shall be conclusive on the organization unless, not later than fifteen days after the bill was mailed to its last known address or otherwise delivered to it, the organization files an appeal to the commission, setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the commission shall be subject to review under the provisions of KRS 341.460(1).

(e) Past-due payments of amounts in lieu of contributions shall be subject to the same interest, [and] penalties, *collection service and lien provisions* that, pursuant to KRS 341.300 *through 341.310*, apply to past-due contributions.

(4)(a) The secretary may, in accordance with regulations prescribed by the commission, require any nonprofit organization that elects to become liable for payments in lieu of contributions to deposit with the department, within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the organization's total wages paid for employment as defined in KRS 341.050(1) (e) for the four (4) calendar quarters immediately preceding the effective date of such election. If the nonprofit organization did not pay wages in each of such four (4) calendar quarters, the amount of the deposit shall be as determined by the secretary.

(b) Money deposited in accordance with this subsection shall be retained by the department in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The department may deduct from the money deposited under this subsection by a nonprofit organization to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the organization within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the organization's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any organization. If, as a result of such review, he determines that an adjustment is necessary, he shall require the organization to make additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(c) If any nonprofit organization fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; Provided, That the secretary may extend for good cause the applicable filing, deposit or adjustment period by not more than sixty (60) days.

(5) If any nonprofit organization is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such organization's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be

effective for that and the next calendar year.

SECTION 17. A NEW SECTION OF KRS 341 IS CREATED TO READ AS FOLLOWS:

(1) Any governmental entity which, pursuant to KRS 341.070(3), is or becomes a subject employer shall pay contributions under the provisions of KRS 341.270, unless it elects, in accordance with this section, to pay the department for the fund an amount equal to the amount of all regular benefits plus all extended benefits paid to workers for compensable weeks of unemployment occurring on or after January 1, 1979 and for all regular benefits and one-half of extended benefits paid to workers for compensable weeks of unemployment occurring prior to such date that is attributable to service performed in covered employment in the employ of such governmental entity during the effective period of such election.

(a) Any governmental entity, which is or becomes a subject employer, may elect to become liable for payment in lieu of contributions for a period of not less than the calendar year in which such subjectivity begins and for the following calendar year provided it files with the department a written notice of its election within thirty (30) days immediately following the date of the determinations of such subjectivity; or

(b) Any governmental entity which has paid contributions under the provisions of KRS 341.270 may change to a reimbursable basis by filing with the department a written notice of its election not later than thirty (30) days prior to the beginning of any calendar year to make payments in lieu of contributions for a period of not less than two calendar years following the effective date of such election.

(c) Any governmental entity which elects to make payments in lieu of contributions, in accordance with paragraphs (a) or (b) of this subsection, shall continue to be liable for payments in lieu of contributions until it files with the secretary a written notice terminating its election not later than thirty (30) days prior to the beginning of the calendar year for which such termination shall become effective except that liability for payments in lieu of contributions shall continue thereafter with respect to wages paid prior to the effective date of such termination.

(d) The secretary may for good cause extend the period within which a notice of election must be filed and may permit the effective date of such election to be retroactive.

(e) The secretary shall notify each governmental entity of any determination made as to its status as a subject employer, pursuant to KRS 341.070 and the effective date of any election or termination made pursuant to this subsection which determinations shall be subject to appeal and review in accordance with the provisions of KRS 341.430(2).

(2) Payment in lieu of contributions shall be made in accordance with the provisions of this subsection.

(a) At the end of each quarter, the department shall bill each governmental entity (or group of governmental entities) which has elected to make payments in lieu of contributions an amount equal to all regular benefits and all extended benefits paid during such quarter for compensable weeks occurring on or after January 1, 1979 and for all regular benefits plus one-half of extended benefits paid for compensable weeks occurring prior to such date which are attributable to service performed in covered employment in the employ of such governmental entity.

(b) Payment of any bill rendered under paragraph (a) shall be made not later than thirty (30) days after such bill was mailed to the last known address of the governmental entity or was otherwise delivered to it, unless there has been an application for review in accordance with paragraph (d) of this subsection.

(c) Payments made by any governmental entity under the provisions of this subsection shall not be deducted or deductible, in whole or in part, from the remuneration of workers in the employ of the governmental entity.

(d) The amount due specified in any bill from the secretary shall be conclusive on the governmental entity unless, not later than fifteen (15) days after the bill was mailed to its last known address or otherwise delivered to it, the governmental entity files an appeal to the commission, setting forth the grounds for such appeal. Proceedings on appeal to the commission from the amount of a bill rendered under this subsection shall be in accordance with the provisions of KRS 341.430 and the decision of the commission shall be subject to review under the provisions of KRS 341.460(1).

(e) Past due payments of amounts in lieu of contributions shall be subject to the same interest, penalties, and collection provisions that, pursuant to KRS 341.300, apply to past due contributions.

(3)(a) The secretary may, in accordance with regulations prescribed by the commission, require any governmental entity that elects to become liable for payments in lieu of contributions to deposit with the department within thirty (30) days after the effective date of its election as a condition thereof, money equal to two percent (2%) of the governmental entity's total wages paid for employment as defined in KRS 341.050(1)(d) for the four (4) calendar quarters immediately preceding the effective date of such election. If the entity did not pay wages in each of such four (4) quarters, the amount of deposit, if required, shall be determined by the secretary.

(b) Provided, however, that the amount of money required to be deposited under this paragraph shall not exceed the amount for which any contributing employer would be liable if subject to the maximum contribution rate applicable to the annual taxable payroll.

(c) Money deposited in accordance with this subsection shall be retained by the department in an escrow account until all possible liability to the fund under the election is terminated, at which time it shall be returned to the governmental entity, less any deductions as hereinafter provided. The department may deduct from the money deposited under this subsection by a governmental entity to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in paragraph (e) of subsection (3) of this section. The secretary shall require the governmental entity within thirty (30) days following any deduction from a money deposit under the provisions of this subsection to deposit sufficient additional money to make whole the governmental entity's deposit at the prior level. The secretary may, at any time, review the adequacy of the deposit made by any governmental entity. If, as a result of such review, he determines that an adjustment is necessary, he shall require the governmental entity to make an additional deposit within thirty (30) days of written notice of his determination or shall return to it such portion of the deposit as he no longer considers necessary, whichever action is appropriate.

(d) If any governmental entity fails to make a deposit, or to increase or make whole the amount of a previously made deposit, as provided under this subsection, the secretary may terminate such governmental entity's election to make payments in lieu of contributions and such termination shall continue for not less than the remainder of that calendar year and the following calendar year beginning with the quarter in which such termination becomes effective; provided, that the secretary may extend for good cause the applicable filing, deposit or adjustment period by not more than sixty (60) days.

(4) If any governmental entity is delinquent in making payments in lieu of contributions as required under subsection (3) of this section, the secretary may terminate such governmental entity's election to make payments in lieu of contributions as of the beginning of the next calendar year, and such termination shall be effective for that and the next calendar year.

Section 18. KRS 341.281 is amended to read as follows:

(1) Each *nonprofit organization* [employer] that has elected to make payments in lieu of contributions under KRS 341.275 shall pay to the department for the fund the amount of regular benefits plus the amount of one-half of extended benefits paid that are attributable to service *performed in covered employment* in the employ of such *nonprofit* employer. *Each governmental entity that has elected to make payments in lieu of contributions under the provisions of Section 17 of this Act shall pay to the department for the fund the amount of all regular benefits plus all extended benefits paid for compensable weeks occurring after January 1, 1979 and for all regular benefits plus one-half of extended benefits paid for compensable weeks occurring prior to such date that are attributable to service performed in covered employment in the employ of such governmental employer.* If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of subsections (2) or (3) of this section.

(2) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages *and previously uncovered wages, as defined in Section 10 of this Act,* paid to the individual by all of his base-period employers.

(3) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages *and previously uncovered wages, as defined in Section 10 of this Act,* paid to the individual by all of his base-period employers.

(4) Two (2) or more employers that have become liable for payments in lieu of contributions, in accordance with the provisions of KRS 341.275, may file a joint application to the secretary for the establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. Each such application shall identify and authorize a group representative to act as the group's agent for the purposes of this subsection. Upon his approval of the application, the secretary shall establish a group account for such employers effective as of the beginning of the calendar quarter in which he receives the application and shall notify the group's representative of the effective date of the account. Such account shall remain in effect for not less than two years and thereafter until terminated at the discretion of the secretary or upon application by the group. Upon establishment of the account, each member of the group shall be jointly and severally liable for payment to the fund in lieu of contributions with respect to each calendar quarter in an amount equal to the total benefits paid in such quarter that are attributable to service performed in the employ of any or all members of the group. The secretary shall prescribe such procedures as he deems necessary with respect to applications for establishment,

maintenance and termination of group accounts that are authorized by this subsection, for addition of new members to, and withdrawal of active members from, such accounts, and for the determination of the amounts that are payable under this subsection and the time and manner of such payments.

(5) Two (2) or more governmental entities that have become liable for payment in lieu of contributions, in accordance with the provisions of Section 17 of this Act, may file a joint application to the secretary for the establishment of a group account of governmental entities subject to all of the provisions of subsection (4) of this section.

Section 19. KRS 341.282 is amended to read as follows:

[In lieu of contributions, the State of Kentucky shall pay to the division for the fund an amount equal to the amount of regular benefits, and of one-half of the extended benefits paid, that is attributable to service in covered employment in the employ of this state, to workers for weeks of unemployment which begin on or after July 1, 1972. If benefits paid to a worker are based on wages paid by both this state and one or more other employers, the amount payable by the state to the fund shall bear the same ratio to total benefits paid to the worker as the base-period wages paid to the worker by the state bear to the total amount of base-period wages paid to the worker by all his base-period employers.] The amount payable to *meet the Commonwealth's obligation as an employer* [the department] under this *chapter* [section] shall be paid [quarterly, in accordance with regulations prescribed by the secretary,] from the general fund of the state or such other administrative funds as might properly be designated by the commissioner of the executive department for finance and administration *or successor thereto* [as chargeable].

Section 20. KRS 341.285 is amended to read as follows:

(1) Notwithstanding any provisions of KRS 341.275 or KRS 341.282, any nonprofit organization that prior to January 1, 1969, paid contributions required by this chapter, and, pursuant to subsection (1) of KRS 341.275 elects, within thirty days after July 1, 1972, to make payments in lieu of contributions, and any state instrumentality that prior to July 1, 1972, paid contributions required by this chapter, and pursuant to KRS 341.282 is required to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular or extended benefits paid, on the basis of wages paid by such organization or instrumentality to workers for weeks of unemployment which begin on or after the effective date of such election or requirement until the total amount of such benefits equals the amount of the positive balance in the reserve account of such organization or instrumentality.

(2) Any nonprofit organization that paid contributions prior to October 20, 1976, and has continued payment of contributions through December 31, 1978 as a subject employer and which was not required to be a subject employer prior to January 1, 1979 under section 3309 of the internal revenue code which elects, within thirty (30) days after January 1, 1979, when such election first becomes available under KRS 341.275, to make payments in lieu of contributions shall not be required to make such payments for benefits paid on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the reserve account of such organization. Notwithstanding the provisions of KRS 341.530, benefit payments made on or after the effective date of an election made under this subsection, attributable to wages paid for services performed in covered employment prior to the effective date of such election, shall be treated as payments in lieu of contributions.

Section 21. KRS 341.350 is amended to read as follows:

An unemployed worker shall, except as provided in KRS 341.360 and 341.370, be eligible for benefits with respect to any week of unemployment only if:

(1) He has made a claim for benefits;

(2) He has registered for work with respect to such week in accordance with regulations prescribed by the secretary;

(3) He is physically and mentally able to work; *provided, however, for the sole purpose of satisfying this requirement, a week of unemployment may be prorated by days in specific cases to prevent inequities;*

(4) He is available for suitable work, and making such reasonable effort to obtain work as might be expected of a prudent person under like circumstances; *provided, however, for the sole purpose of satisfying this requirement, a week of unemployment may be divided into days in specific cases to prevent inequities;*

(5) His base-period wages *plus any previously uncovered wages during the transition period* in that calendar quarter of his base period in which such wages were highest are equal to at least two hundred and fifty dollars, and his total base-period wages *plus any previously uncovered wages during the transition period* are not less than one and three-eighths times the base-period wages *plus any previously uncovered wages during the transition period* paid to him in such quarter and he was paid base-period wages *plus any previously uncovered wages during the transition period* in the last six months of his base period equal to at least eight times his weekly benefit rate;

(6) An otherwise eligible worker shall not be denied benefits under subsection (4) of this section or because of his failure to actively seek work, nor disqualified under paragraph (a) of subsection (1) of KRS 341.370 with respect to any week he is in training with the approval of the secretary.

(7) The foregoing eligibility requirements and the conditions of benefit disqualifications imposed by KRS 341.370 shall be strictly construed. Nothing in this section, excepting subsection (5), nor in KRS 341.360 or 341.370 shall affect the establishment of a "benefit year."

Section 22. KRS 341.360 is amended to read as follows:

No worker may [serve a waiting period or] be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that [waiting periods may be served and] benefits may be paid unless the employer notifies the division in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be [denied credit for a waiting period or be] denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3)*(a)* Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 *or in an educational institution as defined in subsection (4) of KRS 341.067,* begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker has a contract or contracts to perform *or has reasonable assurance that worker will perform such* services in any such capacity for any institution or institutions of higher education *or an educational institution* for both such academic years or both such terms*; or*

(b) Which, when based on service other than as defined in subsection (3)(a) of this section, in an educational institution, as defined in subsection (4) of KRS 341.067, other than an institution of higher education, begins during the period between two (2) successive academic years or terms, if the worker has a contract or contracts to perform or has reasonable assurance that worker will perform such service in any such capacity for an educational institution for both such academic years or both such terms; or

(c) Which, when based on service in any capacity in an institution of higher education other than non-professional workers or in an educational institution as defined in KRS 341.067(4) begins during the period when no such service of the nature normally performed by the worker is scheduled in advance to be performed, including but not limited to such periods as in-service days, winter and spring breaks.

(4) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(5)(a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United State as a result of the application of the provisions of section 203 (a)(7) or section 212 (d)(5) of the immigration and nationality act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

Section 23. KRS 341.370 is amended to read as follows:

(1) According to the circumstances in each case, a worker shall be disqualified from receiving benefits [or serving a waiting period]:

(a) For not less than one (1) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if, subsequent to his most recent work, he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) For not less than six (6) nor more than sixteen (16) weeks immediately following the commission of the disqualifying act, if he has been discharged for misconduct connected with his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct.

(2) A worker shall be disqualified from receiving benefits [or serving a waiting period] for the duration of any period of unemployment with respect to which:

(a) He was discharged for dishonesty in connection with his most recent work;

(b) He voluntarily quit his most recent work to marry or for the purpose of attending school, or to become self-employed; or

(c) He has left his most recent suitable work voluntarily without good cause.

(3) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits; and, within the succeeding twenty-four (24) months, for such additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(4) No worker shall be disqualified under paragraph (b) of subsections (1) or (2) of this section unless the employer, within a reasonable time as prescribed by secretary's regulation, notifies the department for human resources and the worker in writing of the alleged voluntary quitting or the discharge for misconduct; Provided, however, That nothing in this subsection shall restrict the right of the secretary for human resources to disqualify a worker whose employer has refused or failed to notify the department for human resources of the alleged voluntary quitting or discharge for misconduct if such alleged voluntary quitting or discharge for misconduct is known to the secretary for human resources prior to the time benefits are paid to such worker; Provided, further, That the exercise of such right by the secretary for human resources, in the absence of timely notice from the employer, shall not relieve the employer's reserve account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(5) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding such week of unemployment was intermittent or temporary in nature, most recent work may be construed as that work last preceding such intermittent or temporary work.

Section 24. KRS 341.380 is amended to read as follows:

(1) All benefits shall be paid through employment offices, or such other agencies as may be designated by regulations of the secretary. Claims for all payments of benefits shall be made in accordance with regulations of the secretary.

(2) The weekly benefit rate payable to an eligible worker for weeks of unemployment shall, except as provided in KRS 341.390, be an amount equal to one twenty-third ($1/23$) of his base-period wages *plus any previously uncovered wages during the transition period* in that calendar quarter of his base period in which such wages were highest, except that no worker's weekly benefit rate shall be less than twelve dollars ($12) nor more than the maximum rate as determined in accordance with subsection (3) of this section.

(3) Prior to the first day of July of each year the secretary shall determine the average weekly wage for insured employment by dividing the average monthly employment, as obtained by dividing the total monthly employment reported by subject employers for the preceding calendar year by twelve (12), into the total wages reported by such employers for such calendar year and dividing by fifty-two (52). Fifty percent (50%) of the amount thus obtained, adjusted to the nearest multiple of one dollar ($1), shall constitute the maximum weekly benefit rate for those workers whose benefit year commences on or after the first day of July of such year and prior to the first day of July of the next following year.

(4) The maximum amount of benefits payable to any worker within any benefit year shall be the amount equal to whichever is the lesser of (a) twenty-six (26) times his weekly benefit rate or (b) one-third ($1/3$) of his base-period wages *plus any previously uncovered wages during the transition period*, except that no worker's maximum amount shall be less than fifteen (15) times his weekly benefit rate. Such maximum amount, if not a multiple of one dollar ($1), shall be adjusted to the nearest multiple of one dollar ($1).

Section 25. KRS 341.300 is amended to read as follows:

(1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to a penalty at the rate of one percent (1%) per month or fraction thereof, not to exceed sixty percent (60%) of the amount of such contributions, from and after such date until payment is received by the department, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section. These penalties shall be paid into the unemployment compensation contingent fund.

(2) If, after due notice, any subject employer defaults in any payment of contributions or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court *or the Franklin District Court depending upon the jurisdictional amount in controversy including penalties* in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workmen's compensation law.

(3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.

(4) An action for the recovery of contributions or penalties under this section shall be barred and any lien therefor shall be canceled and extinguished unless collected or suit for collection has been filed within five (5) years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 26. KRS 341.415 is amended to read as follows:

(1) Any person who has received any sum as benefits under this chapter while any condition for the receipt of such benefits was not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the secretary, either have such sum deducted from any future benefits payable to him under this chapter or repay the department for the fund a sum equal to the amount so received by him. *If after due notice the recipient of such sum fails to remit or arrange for remittance of the sum, the sum may be* [Such sum may be] collected in the manner provided in subsection (2) of KRS 341.300 for collection of past due contributions and any sums so collected shall be credited to the pooled account.

(2) At or after the commencement of an action under subsection (1) of this section attachment may be had against property of the recipient of improperly paid benefits in the manner provided in subsection (3) of KRS 341.300.

(3) A lien on a parity with state, county, and municipal ad valorem tax liens, and superior to the lien of any mortgage or other encumbrance heretofore or hereafter created is hereby created in favor of the division upon all property of any recipient of improperly paid benefits. This lien shall be for a sum equal to the amount of the overpayment finally determined. The lien shall commence from such time as the recipient has exhausted or abandoned the appeal procedure set forth in this chapter and the amount of the overpayment is finally fixed. A notice of lien may be filed in the same manner as that provided for in KRS 341.310.

(4) [(2)] Any amount paid to a person as benefits, which he has been found liable to repay or to have deducted from future benefits under *subsections* [subsection] (1), *(2) and (3)* of this section, which has neither been repaid nor so deducted within a period of three (3) years following the last day of the benefit year within which it was paid, shall be deemed to be uncollectible and shall be permanently charged to the pooled account, except that if such payment was made by reason of fraudulent representations, no future benefits shall be paid such person until such amount has been repaid or deducted from such future benefits without respect to time.

SECTION 27. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

The governor is hereby authorized to apply for advances to the credit of this state's account in the unemployment trust fund from the federal unemployment account in such fund as provided for in title XII of the social security act when the balance of this state's account requires such action.

Section 28. KRS 341.510 is amended to read as follows:

(1) Except *as provided in subsection (2) of this section and except* such money as has been credited to the account of this state in the unemployment trust fund under the provisions of section 903 of the social security act as amended, and appropriated by legislative action authorized thereunder for administrative expenses, money shall be requisitioned from the state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the secretary. The secretary, through the state treasurer acting as his fiscal agent, shall from time to time requisition from the unemployment trust fund such amounts not exceeding the amounts standing to this state's accounts therein, as he considers necessary for the payment of benefits for a reasonable future period.

(2) The governor may, at any time, pursuant to section 1202 of the social security act, request that funds be transferred from this state's account in the unemployment trust fund for repayment of part or all of that balance of advances made to the state under section 1201 of the social security act.

(3) Upon receipt thereof the treasurer shall deposit such money in the benefit account and shall issue his vouchers for the payment of benefits solely from such benefit account. Expenditures of such money in the

benefit account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody. All vouchers issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the approval in writing of the commissioner of the executive department for finance and administration.

(4) [(3)] Any balance of money requisitioned from the unemployment trust fund that remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of benefits during succeeding periods, or, in the discretion of the secretary, shall be redeposited with the secretary of the federal treasury to the credit of this state's account in the unemployment trust fund, as provided in KRS 341.500.

Section 29. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all *regular* benefits paid to an eligible worker in accordance with KRS 341.380 *plus* [and one-half of] the *extended* benefits paid in accordance with KRS 341.700 *through* [to] KRS 341.740, *subject to the provisions of paragraphs (a) and (b) below,* shall be charged proportionately against the accounts of those of his subject employers from whom he has base-period wages. The proportion so used shall be that ratio which is obtained by dividing the base-period wages of a worker *received* from such employer by the total base-period wages *and previously uncovered wages, as defined in Section 10 of this Act,* of such worker, provided, however, that the division may, when necessary, make such fractional adjustments in such computation as may be required to assure mathematical compliance with this provision*:*

(a) Subject employers, which are not governmental entities as defined in Section 8 of this Act, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 through 341.740; and

(b) Subject employers which are governmental entities, as defined in Section 8 of this Act, shall be charged for all extended benefits paid in accordance with KRS 341.700 through 341.740 for compensable weeks occurring on or after January 1, 1979 and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to an employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, or such employer has continuously employed the worker without significant interruption since the end of the worker's base period and in the week with respect to which benefits are paid, wages and employment are provided to the worker by such employer to the same extent as during the base period, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account shall, unless terminated [or exhausted] as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account under subsection (2) of this section. A subject employer's reserve account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540.

(5) Any subject employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid within one month following the computation date and voluntary payments made within twenty days following the mailing of notices of new rates shall, in accordance with regulations established by the secretary, be credited to an employer's reserve account as of the computation date; provided, no voluntary payments shall be used in computing an employer's rate unless such payment is made prior to the expiration of one hundred and twenty days after the beginning of the year for which such rate is effective.

(6) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (501(c)(3)) organizations may jointly request the secretary to establish a group reserve account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the

establishment, maintenance and dissolution of a group reserve account.

Section 30. KRS 341.540 is amended to read as follows:

(1) Any employing unit which succeeds to or acquires the organization, trade or business of a subject employer shall assume the resources and liabilities of the predecessor's reserve account, including penalties, and shall continue the payment of all contributions and penalties due under this chapter, except that the successor or acquirer shall not be required to assume the liability of any delinquent contributions and penalties of a predecessor or predecessors unless the department notifies the successor or acquirer of such delinquency within six months after the department has notice of the succession or acquisition.

(2) The liability for delinquent contributions and penalties imposed upon the successor or acquirer by subsection (1) of this section shall be secondary to the liability of the predecessor or predecessors and if the delinquency has been reduced to judgment the order of execution on such judgment shall be as follows:

(a) Against the assets, both real and personal, of the predecessor or predecessors;

(b) Against the assets, both real and personal, of the business acquired; and

(c) Against the assets, both real and personal, of the successor or acquirer.

(3) Notwithstanding the provisions of subsection (1), any employing unit which succeeds to or acquires a portion of the organization, trade or business from a subject employer, and who is, or by reason of such succession or acquisition becomes, a subject employer, shall assume the position of such employer with respect to the resources and liabilities of such reserve account in proportion to the extent of such succession or acquisition as agreed upon by the parties in interest and approved by the secretary, and the taxable payroll, benefit charges and the potential benefit charges shall likewise be assumed by the successors or acquirers in interest in a like proportion.

(4)(a) The contribution rate of a successor or acquirer employing unit, whether in whole or in part, which was a subject employer prior to such succession or acquisition, shall not be affected by the transfer of the reserve account for the remainder of the rate year in which such succession or acquisition occurred.

(b) The contribution rate of a successor or acquirer employing unit, which was not a subject employer prior to such succession or acquisition *of a predecessor's reserve account, either in whole or in part, shall be, for the calendar year in which such succession or acquisition occurred, the same rate as that of its predecessor* [, shall, for the period beginning with the date of such succession or acquisition and ending on the last day of the rate year in which such succession or acquisition occurred, be the same as that of its predecessor unless the succession or acquisition was in part only, in which event its contribution rate for such remainder of the rate year, shall be two and seven-tenths percent].

(c) The contribution rate *for* [of] a successor or acquirer employing unit, which was not a subject employer prior to *the simultaneous succession to or acquisition of two (2) or more predecessor reserve accounts, either in whole or in part, shall be the rate,* [such succession or acquisition, which acquires simultaneously the organization, trade or business of two or more employing units for whom reserve accounts have been maintained, shall be] determined [as of the most recent computation date,] in accordance with *the provisions of* KRS 341.270, *by combining the reserve accounts succeeded to or acquired as they existed as of the computation date for determining rates for the calendar* [on the basis of the combined accounts transferred. The successor's or acquirer's rate so determined shall become effective as of the date of such succession or acquisition and shall remain in effect for the remainder of the rate] year in which such succession or acquisition occurred.

(d) The contribution rate of a successor or acquirer employing unit which succeeds to or acquires, either in whole or in part, a predecessor's reserve account after a computation date but prior to the beginning of the calendar year immediately following such computation date shall be the rate determined, in accordance with KRS 341.270, by effecting the transfer of such reserve account as of the computation date immediately preceding the date of such succession or acquisition.

Section 31. KRS 341.980 is amended to read as follows:

(1) In enacting *this chapter* [1972 Acts, Chapter 21], it is the intention of the General Assembly to comply with the requirements of the Federal Unemployment Tax Act *and all subsequent amendments including, but not limited to P.L. 94-566 and P.L. 95-19* [as amended by PL 91-373]. *Contributions or reimbursements required herein on account of previously uncovered services performed prior to January 1, 1978 as defined in section 121 of the federal unemployment compensation act of 1976, as amended, and* benefits based on *such services* [service] in employment defined herein shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this chapter. Interpretations of the provisions contained herein or elsewhere in this chapter should be consistent with such Federal Act and interpretations thereof and substantial weight should be given to the commentary contained in those documents entitled *"Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976— P.L. 94-566"*, "Draft Legislation to Implement the Employment Security Amendments of 1970 ... H. R. 14705" and "Manual of State Employment Security

Legislation, Revised September 1950," published by the United States Department of Labor, Manpower Administration.

(2) If Public Law 94-566 or the federal act it amends shall for any cause become inoperative in its application, or stayed pendente lite, as to services performed by employes of this state or one or more of its counties, cities or political subdivisions, then, the provisions of this Act by virtue of that fact, shall, likewise and to the same extent, become inoperative as to such services. Any unobligated contributions in the unemployment insurance fund paid into the fund by such governmental entity, or returned to this state by the United States treasurer because such federal law becomes inoperative, shall be refunded to the governmental entity contributors proportionately to their unexpended contributions under regulations of the commission. Nothing in this subsection shall waive payments accrued in lieu of contributions.

Section 32. KRS 341.135, Election of compensation coverage for personnel of department by commissioner of the executive department for finance and administration, is repealed.

Section 33. Whereas, the foregoing changes in the Kentucky unemployment insurance law are necessary in order (1) to bring the Act into conformity with certain amendments to the federal unemployment tax act to assure proper tax credit for Kentucky's contributing employers and continuation of federal administrative fund grants to Kentucky, (2) to make possible a more effective administration, (3) to remove existing inequities, and (4) to revise the fund solvency factor and the rate schedules commencing with the calendar year 1978, an emergency is declared to exist and Sections 10, 11 and 15 shall become effective January 1, 1978. All other sections of the Act, except those relating to services for which required coverage by the state was deferred until January 1, 1979, by P. L. 95-19, shall become effective July 1, 1978.

The Committee Amendment to **HB 634** is as follows:

Amend printed copy of **HB 634** on page 87, after line 7, by inserting the following new section:

"SECTION 32. A NEW SECTION OF KRS CHAPTER 341 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be construed to be more stringent than the federal law covering this subject matter."

and on page 87, line 8, after the word "Section" by changing "32" to "33";

and on page 87, line 12, after the word "Section" by changing "33" to "34".

Representative B. Richardson moved the rules be suspended in regard to posting requirements. Agreed.

Representative B. Richardson moved the three day posting requirement be waived on the following Bills and Resolutions: **HR 74, HR 81, HR 82, HR 99, HR 102, HB 760, HB 761, HB 727.** Agreed.

The Speaker vacated the Chair.

Representative Fitzgerald presiding.

Representative Little moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Little moved that he be recorded as voting "yea" on **HB 567.** Agreed.

Representative Marcum moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcum moved that he be recorded as voting "yea" on **HB 567.** Agreed.

Representative Weinberg moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Weinberg moved that he be recorded as voting "yea" on **HB 567.** Agreed.

Announcements (continued)

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HCR 17** by Representative Weinberg.

Floor Amendment No. 1 to **HR 79** by Representative Fitzgerald.

Floor Amendment No. 6 to Committee Substitute to **HB 87** by Representative Stewart.

Floor Amendments Nos. 7 and 8 to Committee Substitute to **HB 87** by Representative B. Richardson.

Floor Amendment No. 9 to Committee Substitute to **HB 87** by Representative Holloway.

Floor Amendment No. 10 to Committee Substitute to **HB 87** by Representative Hancock.

Floor (Title) Amendment and Floor Amendment No. 1 to **HB 168** by Representative Donnermeyer.

Floor Amendment No. 2 to **HB 253** by Representative Weinberg.

Floor Amendment No. 2 to **HB 254** by Representative Tobin.

Floor Amendment No. 2 to **HB 374** by Representative O'Brien.

Floor Amendment No. 3 to **HB 374** by Representative O'Brien.

Floor Amendment No. 1 to **HB 579** by Representative Clarke.

Floor Amendment No. 1 to **HB 661** by Representative B. Richardson.

Floor (Title) Amendment to **SB 20** by Representative Dawahare.

Floor Amendment No. 1 to **SB 20** by Representative Patrick.

Floor (Title) Amendment to **SB 21** by Representative Dawahare.

Floor Amendment No. 1 to **SB 21** by Representative Patrick.

Floor (Title) Amendment to **SB 25** by Representative Dawahare.

Floor Amendment No. 1 to **SB 25** by Representative Dawahare.

Floor (Title) Amendment to **SB 26** by Representative Dawahare.

Floor Amendment No. 1 to **SB 26** by Representative Dawahare.

Floor (Title) Amendment to **SB 29** by Representative Dawahare.

Floor Amendment No. 1 to **SB 29** by Representative Patrick.

Floor (Title) Amendment to **SB 31** by Representative Dawahare.

Floor Amendment No. 1 to **SB 31** by Representative Patrick.

Floor (Title) Amendment to **SB 41** by Representative Dawahare.

Floor (Title) Amendment to **SB 41** by Representative Deskins.

Floor Amendment No. 1 to **SB 41** by Representative Deskins.

Floor Amendment No. 2 to **SB 41** by Representative Patrick.

Floor (Title) Amendment to **SB 42** by Representative Dawahare.

Floor (Title) Amendment to **SB 42** by Representative Deskins.

Floor Amendment No. 1 to **SB 42** by Representative Deskins.

Floor Amendment No. 2 to **SB 42** by Representative Patrick.

Adjournment

Representative B. Richardson moved that the House adjourn until 10:00 a.m., Friday, March 3, 1978.

On the roll call the vote was yeas 31-Arnold, Bendl, Benson, Boswell, Crupper, Cyrus, Davenport, Donnermeyer, Guy, Hancock, Head, Hines, Holbrook, Jones, Kidd, Layman, Marcum, May, Noe, Pearman, Petty, Plummer, Priddy, Schmidt, F. Smith, Stewart, Tobin, Turner, Van Horn, Weinberg, Wilborn. Nays 3-W. Allen, Fitzgerald, Gray.

The motion to adjourn was adopted.

FRIDAY, MARCH 3, 1978

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Kenton.

Prayer by Reverend John Chenault, First Christian Church, Frankfort.

The roll was called. All present except Representatives Imes, Isler, Maynard, McBee and Sale.

Representative Wilborn moved that absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Brinkley moved that the reading of the Journal of March 2, 1978, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

HB 768, by Representative Mann: AN ACT relating to law enforcement officers.

Senate Message

Announcing passage of **SB 138, SB 171, SB 251, SB 284, HB 18, HB 37, HB 55, HB 57, HB 160, HB 209, HB 271,** and **HB 404.**

Reference of Bills and Resolutions

The Clerk announced the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 767, SB 257.**

Business Organizations and Professions: **HB 765.**

Cities: **SB 261.**

Elections and Constitutional Amendments: **HCR 106.**

Health and Welfare: **HB 764, SB 242.**

Judiciary-Statutes: **SB 142, SB 264.**

Labor and Industry: **HB 763, HJR 108.**

Public Utilities and Transportation: **SB 3, SB 301.**

State Government: **HCR 105, SB 237.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Statutes: **HR 95.**

Banking and Insurance: **HB 709, HB 722, HB 757.**

Report of Committees

The Committee on Rules reported **HJR 52, HB 87, HB 470, HB 474, HB 492, HB 500, HB 528, HB 582, HB 519, HB 449, HB 640, HB 647, HB 648, HB 660, HB 13, HB 573, HB 576, HB 579, HB 605, HB 618, HB 626, HB 661, HCR 17,** HCR 48, **HCR 50,** and **HCR 70** have been posted for passage in Orders of the Day, March 6, 1978.

The Committee on Rules reported the following Bills and Resolutions have been recommitted: **HB 462, HB 527, HB 551, HJR 79, HB 629** to the Committee on Appropriations and Revenue; **HB 275,** to the Committee on Banking and Insurance.

The Committee on Rules reported **HB 331, HB 588, HB 589, HB 590, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597, HB 598, HR 66, HCR 68** and **HCR 94** have been posted for passage in Consent Orders of the Day, March 6, 1978.

The Committee on Rules reported **HB 319** has been taken from the Consent Calendar and recommitted to the Committee on State Government.

Report of Committee

The Committee on Business Organizations and Professions reported **HB 311,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar

HB 311, AN ACT providing for licensing of electricians, electrical contractors, and electrical inspection and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Electrical contractor" means any person, firm, partnership or corporation engaged in the business of, or holding themselves out to the public as being engaged in the business of installing or repairing, or contracting to install or repair any electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for carrying, using or consuming electrical energy for which a permit is required by Section 9 of this Act.

(2) "Supervisor" means any person who is employed by an electrical contractor to supervise the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.

(3) "Electrician" means every person doing work of installing, repairing or maintaining any electrical wiring or equipment subject to the provisions of this Act.

(4) "Apprentice electrician" means all persons who are legally indentured under the Kentucky state electrical apprenticeship training program. "Apprentice electrician" shall further mean a person engaged in the practical installation or alteration of electrical wiring who has not yet qualified to be eligible for an electrical contractors license, supervisors license, or an electricians license. The work of an apprentice electrician shall at all times be under the direct guidance of a person holding an electricians license as defined above; provided, however, no more than one (1) apprentice electrician for every three (3) electricians will be allowed to work on projects. This classification requires an apprentice registration card.

(5) "Electrical wiring" means the installation or repair or electrical wiring, appliances, apparatus or any electrical device.

(6) "Board" means the electrical contractors administrative board provided for by this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall apply to all low voltage circuits and equipment, all installations of electrical conductors, wiring, conduits, fixtures, devices, appliances or other electrical equipment or materials, hereinafter defined as "electrical wiring" within or on public or private building, structures, or premises, except as hereinafter provided.

(2) The provisions of this Act shall not apply to the installation, alteration or repair of electrical current up to and including the meters, where such work is an integral part of the system owned and operated by an electrical public service corporation, or the light and power department of any city in this state, in rendering its duly authorized service as such.

(3) The provisions of this Act shall not apply to the installation, alteration or repair of electrical equipment and devices for the operation of signals or the transmission of intelligence, where such work is an integral part of the communication system owned and operated by a telephone or telegraph company in rendering its duly authorized service as such, or to the signal or communication systems of railroad and pipeline companies not used by the public or for hire.

(4) The provisions of this Act shall not apply to the installation of electrical wiring, to railroad facilities or equipment, railway cars or to automotive electrical equipment.

(5) The provisions of this Act shall not apply to the installation, alteration or repair of electrical equipment used for radio transmission in broadcasting or transmitting stations.

(6) The provisions of this Act shall not apply to the installation, alteration, or repair of electrical equipment, other than the power supply used for passenger elevators, dumbwaiters, freight elevators, escalators, moving stairways or walks, link belt carriers, theatre stage and curtain elevators, organ consoles and orchestra elevators and dock elevators.

(7) The provisions of this Act shall not apply to the installation, alterations, or repair of electrical equipment in farm buildings.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the electrical administrative board of the Commonwealth of Kentucky, which shall consist of seven (7) members appointed by the governor and shall include one (1) representative of an electrical public service corporation operating in the Commonwealth of Kentucky, two (2) representatives of persons, firms, partnerships or corporations engaged in the business of electrical contractor, two (2) representatives of a nationally recognized electrical workers organization, one (1) representative who is a registered electrical engineer, and one (1) representative who is an electrical inspector certified by the Commonwealth of Kentucky. Each member of the board shall be a citizen of the United States and a resident of this state. The term of office for board members shall be four (4) years except on the first board appointed, one (1) member shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years, and two (2) for a term of four (4) years. The board shall elect one (1) of its members as chairman, and one (1) of its members as secretary for a term of one (1) year.

(2) Members of the board shall be allowed ninety dollars ($90.00) per day for each day of attendance at board meetings, and in addition thereto, shall be reimbursed for all legitimate expenses incurred in attending such meetings, but they shall not receive per diem allowance for more than sixty (60) days during any fiscal year. All per diem and other expenses incurred herein shall be paid from the "electrical administrative fund" provided for in this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall hold meetings quarterly and may hold special meetings at the call of the chairman. It shall be the duty of the board to administer and enforce the provisions of this Act and all orders of the board issued in conformity to this Act; to adopt and issue necessary rules and regulations for the enforcement of the provisions of this Act; to examine all applicants for licenses and certificates of qualification and to grant licenses and certificates to all such applicants who show the proper qualifications and who have paid the prescribed fees, to revoke or suspend any license or certificate on the grounds set forth in Section 11 of this Act, and to take such other action as the board may find necessary for carrying out the provisions of this Act.

(2) The board shall conduct examinations and issue licenses, certificates and apprentice registration cards. Four (4) members of the board present at any meeting shall constitute a quorum for the transaction of business, but any action taken at any meeting shall require the affirmative vote of at least four (4) members.

(3) The board shall issue regulations prescribing the minimum standards for the installation of electrical wiring, which orders shall embody the requirements prescribed by the national electrical code as approved by the american standards association and the national electrical safety code, but the board may by order prescribe standards higher than those prescribed by said codes.

(4) All rules and regulations issued by the board shall be printed and distributed to all electrical inspectors certified by the public service commission as provided in KRS 227.489. Said rules and regulations shall be promulgated in accordance with KRS Chapter 13. All such rules and regulations shall also be available for general distribution at the office of the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall appoint a qualified licensed electrical engineer. He shall be a citizen of the United States and a resident of this state for a period of not less than five (5) years immediately preceding the time of his appointment and shall have had at least ten (10) years practical experience at the trade.

(2) It shall be the duty of the electrical engineer, under the direction of the board, to administer and enforce the provisions of this Act and the rules and regulations issued by the board, and to perform such other

duties as are assigned to him by the board. He may hold membership in the national fire protective association and the international association of electrical inspectors, and, with the consent of the board may serve on any electrical committee of these associations to which he may be appointed and shall be allowed all necessary expenses in connection with such activities.

(3) The electrical engineer shall file with the secretary of state of the Commonwealth of Kentucky a bond in the amount of five thousand dollars ($5,000), said bond to be approved by the secretary of state and conditioned upon the faithful performance of his duties. He shall be removed from office for cause, only, after a full hearing by the board, at which he shall be entitled to appear and produce evidence in his behalf. He shall receive a salary in an amount to be fixed by the board subject to approval by the governor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

The electrical contractors administrative board shall require all electrical installations to be inspected by an electrical inspector certified by the public service commission as provided in KRS 227.489.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1)(a) No person, firm, partnership or corporation shall engage in the business of electrical contracting in political subdivisions to which this Act applies, unless such person, firm, partnership or corporation shall have received a license from the board as such. Each application for an electrical contractor's license shall be made in writing on forms prescribed and furnished by the board, stating the names and places of business of the applicant, the name of the representative of the applicant that will supervise the work to be done under the license, and shall be accompanied by the prescribed examination fee. The designated representative of each applicant shall be examined by the board to determine his knowledge of the rules and regulations governing the installation of electrical wiring issued under authority of this Act. Each license issued in accordance with the provisions of this Act shall state the name of the person, firm, partnership or corporation licensed, who shall be known as the holder of the license, and shall also state the name of the person who has passed the examination and is designated as supervisor of the work to be done under the license. The person designated as supervisor may be a person in the employ of the holder of the license; or, if the holder is a person, may be the holder himself; or, if the holder is a corporation, may be an officer of the corporation. The same person shall not be designated as supervisor in more than one electrical contractor's license issued to different persons, firm, partnerships or corporations. In the event the business association of the supervisor shall terminate with any electrical contractor granted a license by this subsection, the holder of the electrical contractor's license shall notify the board within ten (10) days by registered mail and this license shall become null and void within sixty (60) days after such termination, unless another supervisor is qualified in accordance with the above requirements. Before any license shall be granted, or any expiring license renewed, the applicant shall pay to the board a fee in the amount specified herein, and shall also file with the electrical administration board of the Commonwealth of Kentucky a bond in the sum of five thousand dollars ($5,000). The bond is to be conditioned upon the faithful performance of all work entered upon or contracted for by any licensed electrical contractor. Any action may be maintained on the bond by any person injured or damaged through the want of skill or the use of unsuitable or improper material in the performance of any work contracted for or undertaken by the licensee.

(b) Applicants for a license as an electrical contractor or supervisor who have been engaged in the business for a period of at least five (5) years may be licensed on the basis of knowledge and experience during a period of one year from the effective date of this Act.

(2) No person shall engage in the occupation of electrician in any political subdivision to which this Act applies unless such person shall be granted a license as an electrician. Such person shall be examined by the board as to his knowledge of the rules and regulations governing the installation of electrical wiring issued under authority of this Act, in conformity with recognized standards. Each application for an electrician's license shall be made in writing on forms prescribed and furnished by the board and shall contain statements made under oath showing the applicant's record of experience as an electrician, and shall be accompanied by the examination fee prescribed herein.

(3) All licenses issued pursuant to this Act may be classified by the board to meet such qualifications demonstrated by the applicant, according to the rules and regulations of electrical standards which may be promulgated by the board.

(4) Fees not to exceed fifty dollars ($50) for any examination or license to be fixed by the board, shall be collected by the board before conducting any examination or granting a license to any applicant hereunder, in accordance with the provisions of this Act.

(5) All licenses issued under the provisions of this Act shall expire on July first of each year. Applications for renewal of a current license accompanied by the same fees required for an original license, before the expiration date, shall authorize operation as an electrical contractor, supervisor, electrician, or apprentice electrician by such licensee until actual issuance of such renewal license for the ensuing year. All applications for renewal of licenses shall be filed with the state electrical administrative board not later than

June thirtieth of each year; otherwise such licenses shall be automatically suspended, and shall be renewable thereafter only on the payment of the examination fee and upon re-examination under the provisions of this Act. However, the board may waive re-examination in its discretion.

(6) Electricians who can prove a minimum of five (5) years experience at the trade are exempt from examination and may obtain a license during the period of one (1) year from the effective date of this Act. Upon completion of the one (1) year period, applicants for electricians license shall be required to prove five (5) years experience at the trade or show proof of successful completion of a four (4) year apprenticeship training program, approved by the Kentucky department of labor and the Kentucky apprenticeship and training council, to be eligible to take the examination.

(7) Electricians who are non-residents of the state of Kentucky and travel into the state for temporary jobs may be granted a temporary work permit upon recommendation and employment by a licensed contractor for a period of sixty (60) days. During this time, said person shall show written certification of five (5) years or more experience at the trade. Upon receipt of satisfactory written certification of five (5) years or more experience the board may at its discretion extend the temporary permit until the temporary job is complete. The fees for a temporary permit shall be the same as required in subsections (4) and (5) of this section.

(8)(a) Any electrician or apprentice electrician, as defined in Section 2 of this Act, who has been licensed by the Commonwealth of Kentucky shall not be required to take any examination or secure any other license to engage in his trade within the Commonwealth of Kentucky.

(b) Any Kentucky municipal agency having a licensing requirement for electrical contractors and supervisors which is at least as comprehensive and as stringent as that of the electrical administrative board, shall be allowed to examine and license resident electrical contractors and supervisors, such license to be accepted by the electrical contractors' administrative board in lieu of state licensing requirements. The electrical administrative board shall review the licensing and examination requirements of any municipal agency and approve such licensing and examination procedures before recognizing that agency's license.

(9) No license issued under this Act shall be transferable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 1 of this Act, all electrical wiring installed or used shall be in conformity with the Kentucky Revised Statutes, the rules and regulations issued by the board and with approved electrical standards for safety to life and property, and shall be inspected by an inspector certified by the public service commission under KRS 227.489. Unless by a statute of Kentucky or by an applicable ordinance of any political subdivision of Kentucky, a specific type or class of electrical wiring is disapproved for installation and use, conformity with the standards of the underwriter's laboratories, inc., as approved by the american standards association, shall be prima facie evidence of conformity with approved standards.

SECTION 9. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Before any electrical wiring shall be installed within or on any building, structure or premises, publicly or privately owned, or before any alteration or addition be made in any such existing installation, a permit therefor shall be secured from the certified electrical inspector in whose jurisdiction such installation, alteration or addition is to be made except as provided in Section 1 of this Act. However, no permit shall be required to execute any of the following classes of work:

(1) Minor repair work, the replacement of lamps or the connection of portable electrical equipment to suitable receptacles which have been permanently installed.

(2) The installation of temporary wiring for testing electrical equipment or apparatus.

(3) The installation, alteration or repair of electrical equipment for the operation of signals or the transmission of intelligency by wire.

SECTION 10. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

No person shall be employed by any municipality in this state as electrical inspector without having first secured from the public service commission a certificate as an electrical inspector signed by the chairman of the public service commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Any electrical contractor's license, supervisor's license, electrician's license, or apprentice electrician's license issued in accordance with the provisions of this Act may, after a hearing by the board, be suspended for a definite length of time, or revoked by the board, if the holder of any such license or certificate shall wilfully or by reason of incompetence violate any statute relating to the installation, alteration, maintenance or repairs of electrical wiring as defined in this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Any person, firm, partnership or corporation may register an appeal with the board for a review of any decision of the electrical engineer of the board if the appeal is made in writing within fifteen (15) days after the notice of such decision has been received by the complainant. Upon receipt of an appeal, the board shall proceed to determine if the action complained of was in conformity with the provisions of this Act and the rules and regulations issued by the board hereunder, and within fifteen (15) days after its next regular or special meeting, shall render a decision in accordance with its findings.

(2) The board shall prescribe, by regulation, rules for the conduct of hearings held under this Act. The rules shall provide for a fair hearing and shall require the board to make a record or proceedings before it.

(3) Within thirty (30) days after entry of the final order by the board, an aggrieved party may petition Franklin Circuit Court for review. The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects, be handled in an expeditious manner by the court. No new or additional evidence shall be introduced in the Franklin Circuit Court, except if the order or decision was procured by fraud, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) If questions of fact are in issue, whether or not any evidence supports the order appealed from, and

(c) The order or decision is not in conformity with the provisions of this Act.

After such a hearing, the court shall enter judgment affirming, modifying or setting aside the order or decision. Any party aggrieved by judgment of the Franklin Circuit Court may appeal to the court of appeals, in accordance with the rules of civil procedure. The appeal shall be advanced for immediate hearing.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Records of the meetings of the board shall be open for inspection at all times. The board shall keep a record of all licenses and certificates of qualification issued by it and shall have printed a manual of its rules and regulations for the conduct of examinations.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall deposit all fees received by it with the state treasurer who shall keep such money in a trust and agency account, to be known as the "electrical administrative fund", and the moneys so deposited in said fund are hereby appropriated for the purpose of paying the expenses of the board administering this Act.

(2) Should there be an unexpended balance in the electrical administrative fund at the end of any fiscal year, an estimate shall be made by the board of the approximate amount that will be collected the succeeding year, and the excess above the amount shall be transferred by the state treasurer to the general fund of the state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Any person, firm, partnership or corporation who violates any provision of this Act, or who violates any regulation of the board issued in conformity to the provisions of this Act, or who shall fail or refuse to comply with the provisions of this Act or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be subject to a fine of not less than twenty-five dollars ($25), nor more than five hundred dollars ($500), or by imprisonment not to exceed sixty (60) days, or by both.

Section 16. There is appropriated to the electrical administrative fund from the general fund, the sum of $5,000 for the purpose of defraying any expense that may be incurred by the board in the administration of this Act before sufficient funds have been collected from prescribed license fees. Fifty percent (50%) of all fees collected by the board shall be paid into the general fund until the $5,000 appropriation has been repaid.

Section 17. KRS 227.450, Definition; 227.460, Application of KRS 227.450 to 227.500; 227.470, Authority for joint city-county action; KRS 227.480, Authority to require permits — Standard of safety; 227.490, Examination may be required; and 227.500, Authority to fix penalty, are repealed.

The Committee Substitute for **HB 311** is as follows:

HB 311, AN ACT providing for licensing of electricians, electrical contractors, and electrical inspection and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Electrical contractor" means any person, firm, partnership or corporation engaged in the business of, or holding themselves out to the public as being engaged in the business of installing or repairing, or contracting to install or repair any electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for carrying, using or consuming electrical energy for which a permit is required by Section 9 of this Act.

(2) "Supervisor" means any person who is employed by an electrical contractor to supervise the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power.

(3) "Electrician" means every person doing work of installing, repairing or maintaining any electrical wiring or equipment subject to the provisions of this Act.

(4) "Apprentice electrician" means all persons who are legally indentured under the Kentucky state electrical apprenticeship training program. "Apprentice electrician" shall further mean a person engaged in the practical installation or alteration of electrical wiring who has not yet qualified to be eligible for an electrical contractors license, supervisors license, or an electricians license. The work of an apprentice electrician shall at all times be under the direct guidance of a person holding an electricians license as defined above; provided, however, no more than one (1) apprentice electrician for every three (3) electricians will be allowed to work on projects. This classification requires an apprentice registration card.

(5) "Electrical wiring" means the installation or repair of electrical wiring, appliances, apparatus or any electrical device.

(6) "Board" means the electrical contractors administrative board provided for by this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall apply to all low voltage circuits and equipment, all installations of electrical conductors, wiring, conduits, fixtures, devices, appliances or other electrical equipment or materials, hereinafter defined as "electrical wiring" within or on public or private building, structures, or premises, except as hereinafter provided.

(2) The provisions of this Act shall not apply to the installation, alteration or repair of electrical current up to and including the meters, where such work is an integral part of the system owned and operated by an electrical public service corporation, or the light and power department of any city in this state, in rendering its duly authorized service as such.

(3) The provisions of this Act shall not apply to the installation, alteration or repair of electrical equipment and devices for the operation of signals or the transmission of intelligence, where such work is an integral part of the communication system owned and operated by a telephone or telegraph company in rendering its duly authorized service as such, or to the signal or communication systems of railroad and pipeline companies not used by the public or for hire.

(4) The provisions of this Act shall not apply to the installation of electrical wiring, to railroad facilities or equipment, railway cars or to automotive electrical equipment.

(5) The provisions of this Act shall not apply to the installation, alteration or repair of electrical equipment used for radio transmission in broadcasting or transmitting stations.

(6) The provisions of this Act shall not apply to the installation, alteration, or repair of electrical equipment, other than the power supply used for passenger elevators, dumbwaiters, freight elevators, escalators, moving stairways or walks, link belt carriers, theatre stage and curtain elevators, organ consoles and orchestra elevators and dock elevators.

(7) The provisions of this Act shall not apply to the installation, alterations, or repair of electrical equipment in farm buildings.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the electrical administrative board of the Commonwealth of Kentucky, which shall consist of seven (7) members appointed by the governor and shall include one (1) representative of an electrical public service corporation operating in the Commonwealth of Kentucky, two (2) representatives of persons, firms, partnerships or corporations engaged in the business of electrical contractor, two (2) representatives of a nationally recognized electrical workers organization, one (1) representative who is a registered electrical engineer, and one (1) representative who is an electrical inspector certified by the Commonwealth of Kentucky. Each member of the board shall be a citizen of the United States and a resident of this state. The term of office for board members shall be four (4) years except on the first board appointed, one (1) member shall be appointed for a term of one (1) year, two (2) for a term of two (2) years, two (2) for a term of three (3) years, and two (2) for a term of four (4) years. The board shall elect one (1) of its members as chairman, and one (1) of its members as secretary for a term of one (1) year.

(2) Members of the board shall be allowed ninety dollars ($90.00) per day for each day of attendance at board meetings, and in addition thereto, shall be reimbursed for all legitimate expenses incurred in attending such meetings, but they shall not receive per diem allowance for more than sixty (60) days during any fiscal year. All per diem and other expenses incurred herein shall be paid from the "electrical administrative fund" provided for in this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall hold meetings quarterly and may hold special meetings at the call of the chairman. It shall be the duty of the board to administer and enforce the provisions of this Act and all orders of the board issued in conformity to this Act; to adopt and issue necessary rules and regulations for the enforcement of the provisions of this Act; to examine all applicants for licenses and certificates of qualification and to grant licenses and certificates to all such applicants who show the proper qualifications and who have paid the prescribed fees, to revoke or suspend any license or certificate on the grounds set forth in Section 11 of this Act, and to take such other action as the board may find necessary for carrying out the provisions of this Act.

(2) The board shall conduct examinations and issue licenses, certificates and apprentice registration cards. Four (4) members of the board present at any meeting shall constitute a quorum for the transaction of business, but any action taken at any meeting shall require the affirmative vote of at least four (4) members.

(3) The board shall issue regulations prescribing the minimum standards for the installation of electrical wiring, which orders shall embody the requirements prescribed by the national electrical code as approved by the american standards association and the national electrical safety code, but the board may by order prescribe standards higher than those prescribed by said codes.

(4) All rules and regulations issued by the board shall be printed and distributed to all electrical inspectors certified by the public service commission as provided in KRS 227.489. Said rules and regulations shall be promulgated in accordance with KRS Chapter 13. All such rules and regulations shall also be available for general distribution at the office of the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall appoint a qualified licensed electrical engineer. He shall be a citizen of the United States and a resident of this state for a period of not less than five (5) years immediately preceding the time of his appointment and shall have had at least ten (10) years practical experience at the trade.

(2) It shall be the duty of the electrical engineer, under the direction of the board, to administer and enforce the provisions of this Act and the rules and regulations issued by the board, and to perform such other duties as are assigned to him by the board. He may hold membership in the national fire protective association and the international association of electrical inspectors, and, with the consent of the board may serve on any electrical committee of these associations to which he may be appointed and shall be allowed all necessary expenses in connection with such activities.

(3) The electrical engineer shall file with the secretary of state of the Commonwealth of Kentucky a bond in the amount of five thousand dollars ($5,000), said bond to be approved by the secretary of state and conditioned upon the faithful performance of his duties. He shall be removed from office for cause, only, after a full hearing by the board, at which he shall be entitled to appear and produce evidence in his behalf. He shall receive a salary in an amount to be fixed by the board subject to approval by the governor.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

The electrical contractors administrative board shall require all electrical installations to be inspected by an electrical inspector certified by the public service commission as provided in KRS 227.489.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1)(a) No person, firm, partnership or corporation shall engage in the business of electrical contracting in political subdivisions to which this Act applies, unless such person, firm, partnership or corporation shall have received a license from the board as such. Each application for an electrical contractor's license shall be made in writing on forms prescribed and furnished by the board, stating the names and places of business of the applicant, the name of the representative of the applicant that will supervise the work to be done under the license, and shall be accompanied by the prescribed examination fee. The designated representative of each applicant shall be examined by the board to determine his knowledge of the rules and regulations governing the installation of electrical wiring issued under authority of this Act. Each license issued in accordance with the provisions of this Act shall state the name of the person, firm, partnership or corporation licensed, who shall be known as the holder of the license, and shall also state the name of the person who has passed the examination and is designated as supervisor of the work to be done under the license. The person designated as supervisor may be a person in the employ of the holder of the license; or, if the holder is a person, may be the holder himself; or, if the holder is a corporation, may be an officer of the corporation. The same person shall not be designated as supervisor in more than one electrical contractor's license issued to different persons, firm, partnerships or corporations. In the event the business association of the supervisor shall terminate with any electrical contractor granted a license by this subsection, the holder of the electrical contractor's license shall notify the board within ten (10) days by registered mail and the use of the supervisor's license for the business association shall become null and void within sixty (60) days after such termination, unless another supervisor is qualified in accordance with the above requirements. Before any license shall be granted, or any expiring license renewed, the applicant shall pay to the board a fee in the amount specified herein, and shall also file with the electrical administration board of the Commonwealth of Kentucky a bond in the sum of five thousand dollars ($5,000). The bond is to be conditioned upon the faithful performance of all work entered upon or contracted for by any licensed electrical contractor. Any action may be maintained on the bond by any person injured or damaged through the want of skill or the use of unsuitable or improper material in the performance of any work contracted for or undertaken by the licensee.

(b) Applicants for a license as an electrical contractor who have been engaged in the business for a period of at least five (5) years may be licensed on the basis of knowledge and experience during a period of one year from the effective date of this Act.

(c) Applicants for a license as a supervisor who have been engaged in the business for a period of at least five (5) years may be licensed on the basis of knowledge and experience during a period of one (1) year from the effective date of this Act; otherwise, they shall be licensed as set forth herein.

(2) No person shall engage in the occupation of electrician in any political subdivision to which this Act applies unless such person shall be granted a license as an electrician. Such person shall be examined by the board as to his knowledge of the rules and regulations governing the installation of electrical wiring issued under authority of this Act, in conformity with recognized standards. Each application for an electrician's license shall be made in writing on forms prescribed and furnished by the board and shall contain statements made under oath showing the applicant's record of experience as an electrician, and shall be accompanied by the examination fee prescribed herein.

(3) All licenses issued pursuant to this Act may be classified by the board to meet such qualifications demonstrated by the applicant, according to the rules and regulations of electrical standards which may be promulgated by the board.

(4) The fees for any examination or license to be fixed by the board shall be collected by the board before conducting any examination or granting a license to any applicant hereunder, in accordance with the provisions of this Act, and said fees shall be as follows: Contractor's License, a maximum of fifty dollars ($50); Supervisor's License, a maximum of fifty dollars ($50); Electrician's License, a maximum of twenty-five dollars ($25); Temporary Electrician's License, a maximum of twenty-five dollars ($25).

(5) All licenses issued under the provisions of this Act shall expire on July first of each year. Applications for renewal of a current license accompanied by the same fees required for an original license, before the expiration date, shall authorize operation as an electrical contractor, supervisor, electrician, or apprentice electrician by such licensee until actual issuance of such renewal license for the ensuing year. All applications for renewal of licenses shall be filed with the state electrical administrative board not later than June thirtieth of each year; otherwise such licenses shall be automatically suspended, and shall be renewable thereafter only on the payment of the examination fee and upon re-examination under the provisions of this Act. However, the board may waive re-examination in its discretion.

(6) Electricians who can prove a minimum of five (5) years experience at the trade are exempt from examination and may obtain a license during the period of one (1) year from the effective date of this Act. Upon completion of the one (1) year period, applicants for electricians license shall be required to prove five (5) years experience at the trade or show proof of successful completion of a four (4) year apprenticeship training program, approved by the Kentucky department of labor and the Kentucky apprenticeship and training council, to be eligible to take the examination.

(7) Electricians who are non-residents of the state of Kentucky and travel into the state for temporary jobs may be granted a temporary work permit upon recommendation and employment by a licensed contractor for a period of twelve (12) months. Within sixty (60) days, said person shall show written certification of five (5) years or more experience at the trade. Upon receipt of satisfactory written certification of five (5) years or more experience the board may at its discretion extend the temporary permit until the temporary job is complete. The fees for a temporary permit shall be the same as required in subsections (4) and (5) of this section.

(8)(a) Any electrician or apprentice electrician, as defined in Section 2 of this Act, who has been licensed by the Commonwealth of Kentucky shall not be required to take any examination or secure any other license to engage in his trade within the Commonwealth of Kentucky.

(b) Any Kentucky municipal agency having a licensing requirement for electrical contractors and supervisors which is at least as comprehensive and as stringent as that of the electrical administrative board, shall be allowed to examine and license resident electrical contractors and supervisors, such license to be accepted by the electrical contractors' administrative board in lieu of state licensing requirements. The electrical administrative board shall review the licensing and examination requirements of any municipal agency and approve such licensing and examination procedures before recognizing that agency's license.

(9) No license issued under this Act shall be transferable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 1 of this Act, all electrical wiring installed or used shall be in conformity with the Kentucky Revised Statutes, the rules and regulations issued by the board and with approved electrical standards for safety to life and property, and shall be inspected by an inspector certified by the public service commission under KRS 227.489. Unless by a statute of Kentucky or by an applicable ordinance of any political subdivision of Kentucky, a specific type or class of electrical wiring is disapproved for installation and use, conformity with the standards of the underwriter's laboratories, inc., as approved by the american standards association, shall be prima facie evidence of conformity with approved standards.

SECTION 9. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Before any electrical wiring shall be installed within or on any building, structure or premises, publicly or privately owned, or before any alteration or addition be made in any such existing installation, a permit therefor shall be secured from the certified electrical inspector in whose jurisdiction such installation, alteration or addition is to be made except as provided in Section 1 of this Act. However, no permit shall be required to execute any of the following classes of work:

(1) Minor repair work, the replacement of lamps or the connection of portable electrical equipment to suitable receptacles which have been permanently installed.

(2) The installation of temporary wiring for testing electrical equipment or apparatus.

(3) The installation, alteration or repair of electrical equipment for the operation of signals or the transmission of intelligency by wire.

SECTION 10. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

No person shall be employed by any municipality in this state as electrical inspector without having first secured from the public service commission a certificate as an electrical inspector signed by the chairman of the public service commission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Any electrical contractor's license, supervisor's license, electrician's license, or apprentice electrician's license issued in accordance with the provisions of this Act may, after a hearing by the board, be suspended for a definite length of time, or revoked by the board, if the holder of any such license or certificate shall wilfully or by reason of incompetence violate any statute relating to the installation, alteration, maintenance or repairs of electrical wiring as defined in this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) Any person, firm, partnership or corporation may register an appeal with the board for a review of any decision of the electrical engineer of the board if the appeal is made in writing within fifteen (15) days after the notice of such decision has been received by the complainant. Upon receipt of an appeal, the board shall proceed to determine if the action complained of was in conformity with the provisions of this Act and the rules and regulations issued by the board hereunder, and within fifteen (15) days after its next regular or special meeting, shall render a decision in accordance with its findings.

(2) The board shall prescribe, by regulation, rules for the conduct of hearings held under this Act. The rules shall provide for a fair hearing and shall require the board to make a record or proceedings before it.

(3) Within thirty (30) days after entry of the final order by the board, an aggrieved party may petition Franklin Circuit Court for review. The case shall be set down by the court for as early a day as possible for a hearing, and shall in all respects, be handled in an expeditious manner by the court. No new or additional evidence shall be introduced in the Franklin Circuit Court, except if the order or decision was procured by fraud, but the court shall otherwise hear the case upon the record as attested by the board, and shall in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

(a) The board acted without or in excess of its power;

(b) If questions of fact are in issue, whether or not any evidence supports the order appealed from, and

(c) The order or decision is not in conformity with the provisions of this Act.

After such a hearing, the court shall enter judgment affirming, modifying or setting aside the order or decision. Any party aggrieved by judgment of the Franklin Circuit Court may appeal to the court of appeals, in accordance with the rules of civil procedure. The appeal shall be advanced for immediate hearing.

SECTION 13. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Records of the meetings of the board shall be open for inspection at all times. The board shall keep a record of all licenses and certificates of qualification issued by it and shall have printed a manual of its rules and regulations for the conduct of examinations.

SECTION 14. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) The board shall deposit all fees received by it with the state treasurer who shall keep such money in a trust and agency account, to be known as the "electrical administrative fund", and the moneys so deposited in said fund are hereby appropriated for the purpose of paying the expenses of the board administering this Act.

(2) Should there be an unexpended balance in the electrical administrative fund at the end of any fiscal year, an estimate shall be made by the board of the approximate amount that will be collected the succeeding year, and the excess above the amount shall be transferred by the state treasurer to the general fund of the state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

Any person, firm, partnership or corporation who violates any provision of this Act, or who violates any regulation of the board issued in conformity to the provisions of this Act, or who shall fail or refuse to comply with the provisions of this Act or any part thereof, shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be subject to a fine of not less than twenty-five dollars ($25), nor more than five hundred dollars ($500), or by imprisonment not to exceed sixty (60) days, or by both.

Section 16. KRS 227.450, Definition; 227.460, Application of KRS 227.450 to 227.500; 227.470, Authority for joint city-county action; KRS 227.480, Authority to require permits — Standard of safety; 227.490, Examination may be required; and 227.500, Authority to fix penalty, are repealed.

Amend printed copy of **HB 311/HCS,** page 3, line 21, by deleting the comma after the word "wiring".

The Committee on Education reported **HB 565, HB 627** with Committee Amendments attached thereto, with the expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 565, AN ACT relating to the University of Louisville.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.820 is amended to read as follows:

(1) The government of the University of Louisville is vested in a board of trustees consisting of ten competent citizens of Kentucky appointed by the governor; one [non-voting] member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; *a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate;* and a student member who shall be the president of the student body; however, if the student body president is not a full-time student who maintains permanent residency in the commonwealth of Kentucky, a special election shall be held to select a full-time student who does maintain permanent residency in this commonwealth as the student member. The faculty member, *staff member* and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring by reason of such termination shall be filled for the remainder of the respective terms in the same manner. The ten citizen members of the board shall annually elect one of their number to serve as chairman of the board.

(2) To facilitate transition of the University of Louisville to full status as a state institution, terms of members of the board of trustees in office on July 1, 1970, shall be terminated as of that date or as of the date their successors are appointed and qualify, and their successors shall be appointed by the governor according to the following schedule:

(a) Two (2) for one (1) year terms.

(b) Two (2) for two (2) year terms, one (1) of which shall be an alumnus or alumna of the university, selected from a list of three (3) names submitted by the alumni of the University in such manner and according to rules prescribed by the board of trustees;

(c) Three (3) for three (3) year terms.

(d) Three (3) for four (4) year terms.

(3) At the expiration of the respective terms of the citizen members of the board of trustees as prescribed in subsection (2) of this section, successors shall be appointed by the governor for terms of four (4) years each, and in making such appointments the governor shall observe the requirements relating to nominations by the alumni members. Subject to such requirements the governor shall make his appointments

from the state at large so as to divide the *citizen* representation upon the board as nearly equally as possible between the two (2) leading political parties in this state.

(4) Vacancies among the citizen members of the board occurring by death, resignation, removal of residence from the commonwealth or any other cause shall be filled by appointments made by the governor for the expiration of the term, subject to the qualifications set forth in subsection (3) of this section.

(5) No member of the board of trustees or of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty and student members.

(6) Subsection (2) of KRS 63.080 is hereby expressly made applicable to members of the board of trustees of the University of Louisville.

HB 627, AN ACT relating to the establishment of the Kentucky School Building Authority.

WHEREAS, there has been a historic gap between the needs for schoolhousing in the Commonwealth school districts and their ability to construct schoolhousing; and

WHEREAS, the disparity in wealth between school districts has resulted in disproportionate construction programs with the result that some school districts have a large backlog of schoolhousing needs while others have substantially met their needs; and

WHEREAS, it appears that all districts do not make an equal effort in providing adequate schoolhousing; and

WHEREAS, the general assembly recognizes and accepts its role in providing incentives which will result in adequate schoolhousing and further promoting equality in opportunity for all public school children;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) It is the intention of the general assembly through the establishment of a Kentucky school building authority to supply resources for schoolhouse construction beyond those allocated in the minimum foundation program in such a way as to provide incentives to local school districts, further equalize educational opportunity among school districts, and reduce the backlog of schoolhouse construction by empowering the authority to:

(a) Make direct cash grants to local school districts to be used to construct or reconstruct school facilities; assist in implementing energy conservation projects and assist in meeting the cost of emergency facility repair when the local school district is without sufficient funds;

(b) Act on behalf of school districts to issue bonds in the name of the authority, and enter into lease agreements with local boards of education to finance the construction or reconstruction of school facilities;

(c) Enter into agreements with local boards of education which provide for a percentage discount, on a biennially renewal basis, of up to ninety percent (90%) of annual lease agreement payments due the authority for those districts which qualify under regulations of the authority provided for in Section 5 of this Act; and

(d) Enter into lease rental agreements with the department of education to build state-owned department-operated facilities.

(2) Nothing in this Act shall prohibit a school district from issuing bonds in accordance with KRS Chapter 162.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following terms and words have the following respective meanings, unless another meaning is clearly indicated by the context:

(1) "Authority" means the Kentucky school building authority established by this Act as an independent corporate agency and instrumentality of the Commonwealth.

(2) "Department" means the state department of education.

(3) "Superintendent" means the superintendent of public instruction.

(4) "Board of Education" means the governing body of a county school district, or of an independent school district for which the authority issues its revenue bonds pursuant to this Act.

(5) "Project" means any undertaking to provide for a board of education any school buildings, facilities, improvements, and appurtenances and may include not only such as are authorized in KRS 162.120 to 162.300, but also those for any purpose enumerated in KRS 160.477(1)(a) and subsection (1) of Section 1 of this Act.

(6) "Lease" or "lease instrument" means a written instrument for the leasing of one or more school projects executed by the authority as lessor and a board of education as lessee, or executed by the authority as lessor and the department as lessee, as the case may be.

(7) "Bonds" or "bonds of the authority" means bonds issued by the authority under this Act, payable as to principal and interest from rentals received from a board of education or from the department, as the case may be, pursuant to a lease or from contributions from the authority, and constitute municipal bonds exempt from taxation under the constitution of the Commonwealth.

(8) "Maximum state school building authority cost participation formula" means the maximum amount of the cost of a local school district project in which the authority will participate and payments due to the authority from a local school district will be based on that portion of the bond and interest redemption schedule which supports that maximum amount.

(9) "Percentage discount" means the degree to which the authority will participate in meeting the bond and interest redemption schedule required to amortize bonds issued by the authority on behalf of a local school district.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) There shall be an agency and instrumentality of the Commonnwealth for the purpose of assisting the boards of education of any county or independent school district, upon request of such boards, in the financing of public school building projects and undertakings; and the same is hereby created and established as a public corporation under the name Kentucky school building authority, with perpetual succession, and with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise the usual powers of governmental corporations as expressed in KRS Chapter 273.

(2) The authority is empowered to receive and hold in trust for use for the purposes expressly covered in this Act: grants and appropriations from the federal government; appropriations from the state from the general fund; any portion of the state share of federal revenue sharing funds allocated to it; state revenue sharing funds; unexpended year end balances remaining in the foundation program appropriation; rental payments from local school districts but only for application as provided in agreements with said districts; and any and all funds which it may derive from grants or bequests from private agencies.

SECTION 4. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a Kentucky school building authority.

(2) The membership of the Kentucky school building authority shall consist of:

(a) The superintendent of public instruction or his designee who shall act as chairman of the authority;

(b) The secretary of the executive department of finance and administration or his designee;

(c) The attorney general or his designee;

(d) The chairman of the state board for elementary and secondary education or a member of the state board for elementary and secondary education selected by the board;

(e) The chairman of the state board for occupational education or a member of the state board for occupational education selected by the board;

(f) One (1) person appointed by the governor from a list of three (3) nominees submitted by the board of directors of the Kentucky association of school superintendents;

(g) One (1) person appointed by the governor from a list of three (3) nominees submitted by the board of directors of the Kentucky congress of parents and teachers;

(h) One (1) person appointed by the governor from a list of three (3) nominees submitted by the board of directors of the Kentucky association of school administrators;

(i) One (1) person appointed by the governor from a list of three (3) nominees submitted by the board of directors of the Kentucky school boards association; and

(j) One (1) person appointed by the governor from a list of three (3) nominees submitted by the board of directors of the Kentucky education association.

(3) No two (2) nominees for membership on the authority made by each organization as provided for in subjection (2)(f), (g), (h), (i) and (j) of this section shall be from the same congressional district.

(4) Members appointed to the board in accordance with subsection (2)(f), (g), (h), (i) and (j) of this section shall be lay citizens of the Commonwealth and shall not be employed in the public or private schools and colleges of the state at the time of their appointment.

(5) The term of office of the members specified in subsection (2)(a), (b), (c), (d) and (e) of this section shall be the same as the term of office by virtue of which they serve upon the authority.

(6) Appointed members of the authority shall begin their terms of office on July 1, 1978, and shall be appointed for a term of four (4) years provided, however, that in making initial appointments two (2) members will be appointed for a four (4) year term, one (1) member appointed for a two (2) year term, one (1) member for a three (3) year term and one (1) member for a one (1) year term. All appointments thereafter shall be for the terms of four (4) years.

(7) Vacancies occurring on the authority among the appointed members will be filled in the same manner as the original appointment was made as provided for in this section. In the event a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(8) Members of the authority, other than those members provided for in subsection (2)(a), (b) and (c) of this section may receive a per diem of fifty dollars ($50) for each regular or special meeting attended and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for the Kentucky school building authority.

SECTION 5. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) If any of the officers of the authority whose signatures or facsimilies thereof appear on any bonds of the authority, or on any interest coupons appurtenant thereto, or on any other instruments or documents pertaining to the functions of the authority, shall cease to be such officers before delivery of the bonds, or before the effective date or occasion of such instruments or documents, the signatures, and facsimilies thereof, shall nevertheless be valid for all purposes the same as if the officers had remained in office until such delivery or effective date or occasion.

(2) Any six (6) members of the authority shall constitute a quorum for the transaction of business at any meeting convened as hereinafter set forth. The superintendent shall be the chairman. The authority shall elect a vice-chairman from its membership, and shall elect a secretary-treasurer and an assistant secretary-treasurer, each of whom may be a member of the authority or an employe of the department, or a person otherwise employed for such position. The duties of such officers shall be as the authority may prescribe.

(3) The authority shall meet not less than every three (3) months beginning in July of 1978, and at such other times as it may be called as provided in this section. Special meetings of the authority may be called by the chairman, and upon written request of two (2) members the chairman shall call a special meeting of the authority to be held not later than twenty (20) days following receipt of the written request. The chairman shall give notice through the secretary by registered mail or by certified mail, return receipt requested, to each member of the authority at least ten (10) days prior to the time of any meeting, unless all members of the authority waive notice in writing. The offices of the authority shall be at the seat of state government.

(4) The authority may adopt bylaws relating to its organization and internal management, and may alter the same at will. Through its bylaws, or by resolution, it shall establish stated times and places for regular meetings; and may adjourn the same from time to time. If a quorum be present at any special meeting, and it shall appear from the minutes that reasonable notice was given to absent members, or waived by them, or the minutes subsequently consented to by them, any business transacted or action taken thereat shall be as fully regular and official as if transacted or taken at a regular meeting or an adjournment thereof.

(5) The authority may adopt rules and regulations for the conducting of its business and affairs, subject to the provisions of KRS Chapter 13.

SECTION 6. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The duties of the authority shall be to review and act upon applications consistent with Section 1 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The office of director of the Kentucky school building authority is hereby created and shall be filled by appointment of the governor after consultation with the superintendent of public instruction. The director shall have the day-to-day management of the affairs of the authority and shall coordinate the program of the authority with existing affected units and personnel in the department. Subject to the provisions of KRS Chapter 12, the superintendent of public instruction will recommend the establishment of such units and positions as are necessary within the department to effectively implement the program authorized by this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The limit of participation of the authority in the cost of a local district building project shall be set by authority regulations which shall be known as the "maximum state school building authority cost participation formula."

(2) The formula shall contain but not be limited to program and space considerations as follows:

(a) Square foot per pupil space allowance for various school organizations such as elementary, middle, and high schools which shall be based upon standards established for classrooms, laboratories, media centers, special programs,and other auxiliary spaces; and

(b) Costs per square foot for such maximum space allowances specified provided such cost factors are reviewed annually by the authority and updated in accordance with accepted construction cost indices.

SECTION 9. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) In determining the school districts' priority for funding by the authority, the authority shall develop an eligibility classification system which will rank all school districts and shall include but not be limited to:

(a) The need for facilities on a per pupil cost basis for the district as a whole as reflected in the most recent facilities survey on file in the department of education;

(b) An effort index for each school district for the last ten (10) years based upon capital outlay per pupil expended or obligated for school construction in terms of the equalized assessed value of property in the school district; and

(c) The percent of pupil growth experienced by a school district over the past five (5) years.

(2) In determining the degree to which the authority will participate in the cost of local school district construction costs, the authority shall rank all school districts according to the equalized value of property per pupil in average daily attendance for the past five (5) years. The authority will then assign to each district or appropriate groupings of districts an authority percentage participating rate which shall not exceed ninety percent (90%) of the cost of the maximum state school building authority participation formula.

SECTION 10. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

Those school districts having the highest categories of need according to the classification system developed by the authority may be eligible for assistance from the authority as provided for in this Act from such funds as the authority holds in trust for the purpose of constructing school facilities which have the highest priority as shown by their most recent facilities survey approved by the superintendent of public instruction and the state board for elementary and secondary education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) When providing assistance to a board of education as provided in Section 1 (1)(b) and (c) of this Act, the authority may participate in meeting payments required for interest and bond redemption up to a level of ninety percent (90%) of the annual obligation from recurring funds otherwise unobligated; provided, however, that the agreement of the authority to participate in meeting any such payments shall be limited to the biennial budget period of the Commonwealth. It may be provided in such agreement that participation shall be automatically renewed in subsequent biennial budget periods unless notice of non-renewal is given to the affected board of education at a date agreed upon which shall be prior to the date of the beginning of the next biennial budget period.

(2) Upon receiving a request in writing from a board of education, the authority may in its discretion assist such board of education in financing any project by acting in the capacity and manner authorized by cities by KRS 162.120 through KRS 162.290 except KRS 162.240 and by counties by KRS 162.300 except as modified by this Act. When so proceeding the following shall apply to the authority:

(a) "City" or "county" means "authority."

(b) "City clerk" or "county clerk" means "secretary or assistant secretary of the authority."

(c) "Governing body of the city" or "fiscal court" means "authority."

(d) "Mayor or chairman of the board of trustees" or "county judge" means "chairman or vice chairman of the authority."

(e) "Ordinance" in the case of the city, or "resolution" in the case of a county, means a "resolution of the authority."

(f) "Building and appurtenances" means "project" as defined in Section 2(5) of this Act.

(g) It shall be plainly stated on the face of each bond that it was or is issued under the provisions of this Act and that it does not constitute an indebtedness of the Commonwealth of Kentucky.

(h) One or more depositories and paying agents may be selected and designated by the board of education, subject to the approval of the authority, which approval shall not unreasonably be withheld; but each depository and paying agent shall be a financial institution within or without the Commonwealth, which is a member of the federal deposit insurance corporation. To the extent that they exceed the guarantee of the federal deposit insurance corporation, all deposits of sinking funds and of bond proceeds, whether held as certificates of deposit or otherwise, shall continuously be secured by a pledge to the authority of direct obligations of the United States, exclusive of accrued interest, at all times at least equal to the balance on deposit in the fund or account, such securities to be deposited with the authority or held by a trustee or agent designated by the authority; provided however, in lieu of requiring such security the authority may, in its discretion, invest, or cause to be invested and reinvested, any moneys in direct obligations of the United States until such time as cash funds may be needed, and the authority may prescribe for the custody and safekeeping of such securities. When cash funds are needed, the authority shall direct the conversion into cash of such securities, or a sufficient portion thereof, and may require that the same be secured until disbursement, as herein provided. All income from such securities shall accrue to the board of education, but may be retained by the authority and credited upon any rental obligation of the board of education under the lease, or applied to supplement bond proceeds if the same should for any reason turn out to be insufficient to defray the costs and expenses of the project.

SECTION 12. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS;

Moneys received by the authority as rentals under any lease, and from the sale of bonds, are declared not to be funds of the Commonwealth, but shall be corporate funds of the authority to be held, administered, invested and disbursed as trust funds under the terms, provisions, pledges, covenants, and agreements set forth in its leases and bond resolutions and bonds.

SECTION 13. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

Officers, employes and agents of the authority having custody of money shall at all times be bonded to the maximum amount reasonably anticipated to be held at any one (1) time; and each bond shall have good corporate surety, provided by a surety company authorized to do business in the Commonwealth, to be approved in each instance by the authority. Premiums for such surety shall be paid from the budgeted funds of the authority.

SECTION 14. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The authority shall at all times keep and maintain books of record and account reflecting accurately all its financial transactions. The authority shall annually be audited and submit to the governor a written report of its activities, and a copy of each report shall be filed with the clerk of each house of the general assembly on the first day of each regular biennial session.

SECTION 15. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

In connection with each bond issue of the authority it shall be the duty of the authority:

(1) To require the board of education to insure the project to its full insurable value, or to the amount of the bonds outstanding from time to time, whichever is the less, against the hazards covered by the standard fire insurance policy with standard endorsement of "extended coverage," and to require that a copy of each policy be delivered to the authority for inspection and for its records;

(2) To require periodic accounting from all depositories of funds, the same to be submitted on forms prepared and supplied by the authority;

(3) To furnish to the certified public accountant auditing the district, summary identification and description of each issue, and to request that the financial records of the board of education relating thereto be audited as a part of the annual audit of the board of education, and that a separate statement or report thereof be filed with the authority;

(4) To send to each board of education at least thirty (30) days before the due date of any rental payment a notice of the amount of rental to become due and the date thereof, and to require acknowledgment thereof; and

(5) To receive from the board of education in the event of failure, satisfactory evidence that sufficient funds have been transmitted to the authority, or will be so transmitted, for paying both bond principal and interest when due, as provided in the lease, to notify and request that the department withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated to it, and to request that the department transfer the required amount thereof to the authority for the account of the board of education.

SECTION 16. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

It shall be the duty of the department, upon written request of the authority:

(1) To cause the certified public accountant auditing the district to audit the financial records relating to any identified and described bond issue of the authority, as an incident to the certified public accountant's next ensuing annual audit of such board of education, and each subsequent annual audit; and to provide to the authority a statement or report.

(2) Upon receiving a notification and request from the authority as described in Section 15(5) of this Act, to ascertain whether the lease of the board of education has been renewed and is in force in accordance with its terms, and if the same is ascertained to be in force; to withhold from the board of education a sufficient portion of any undisbursed funds then held or set aside or allocated by the department for the board of education, and to comply with the terms of the notification and request of the authority for the account of said board of education.

SECTION 17. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) Bonds of the authority shall be issued in the name of the authority, shall be designated "school building revenue bonds" or, if appropriate, "school building revenue refunding bonds," and shall additionally be identified by the name of the board of education executing the lease. If the authority shall issue more than one (1) series of bonds for the same lessee from time to time, each series, including the first or subsequent to the first, shall additionally be identified distinctly by alphabetical or chronological designation, by date of the bonds, or otherwise as the authority may determine.

(2) For the purpose of determining any limit prescribed by any law for investment of any public funds, or funds of banks, trust companies, insurance companies, building and loan associations, credit unions, pension and retirement funds, and fiduciaries, in obligations of a single obligor, bonds issued by the authority pursuant to this Act shall not be deemed to be bonds or obligations of the same obligor except to the aggregate of all series of bonds involving leases of a single board of education.

(3) Bonds issued by the authority under the provisions of this Act are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, trustees, and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

SECTION 18. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The authority and all of its transactions, activities and proceedings in the authorization and issuance of its bonds, execution of leases, acceptance of conveyances of property, transaction of conveyances of property, and otherwise, shall be exempt from approval, control and supervision of the state property and buildings commission as might otherwise be applicable under KRS 56.440 to 56.580, and from all provisions relating to custodianship by the secretary of state of title documents, leases, abstracts of title, maps and other records as provided in KRS 56.020 and 56.320. Conveyances of property to or by the authority shall not be deemed to be conveyances to or by the Commonwealth, and title to any property acquired by the authority shall be held by the authority in its own name.

SECTION 19. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

Bonds of the authority shall be sold only upon the basis of sealed bids or proposals, publicly solicited, received, opened and acted upon. The "publication area," as that term is used in KRS Chapter 424, shall not be deemed to be the area within which the office of the authority is situated, but shall be deemed to be the "publication area" of the board of education executing the lease. Each sale shall be publicly advertised by means of a notice conforming to the provisions of KRS 424.140, and the same shall be published at least one (1) time, at least seven (7) days in advance of the date set forth for opening bids, in a daily newspaper having bona fide general circulation throughout the Commonwealth. If such publication is made, it shall be sufficient for publication in the "publication area" to be made only one (1) time, at least seven (7) days in advance of the date set forth for the opening of bids. If a copy of the sale notice be delivered or transmitted in good faith to the qualified newspaper of the "publication area" in time for publication in an issue thereof published seven (7) days or more in advance of the date set forth for the opening of bids, and with direction for publication therein, any failure of such newspaper to make publication as directed shall not invalidate the sale of the bonds by the authority on the designated date, nor require postponement or cancellation thereof.

SECTION 20. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky school building authority is hereby authorized to issue revenue bonds based upon lease rental agreements with the Kentucky department of education for the purpose of:

(a) Acquiring sites and building vocational schools which are to be owned by the state and operated by the department of education;

(b) Constructing additions and extensions to the school for the deaf and the school for the blind which are owned by the state and operated by the department of education; and

(c) Building projects for vocational rehabilitation programs which are owned by the state and operated by the department of education.

(2) In exercising the authority in subsection (1) of this section, the Kentucky school building authority will act under the applicable provisions of KRS Chapter 56 and when so acting the word "commission" as it appears in that chapter shall mean "authority."

(3) When a vocational education project is under consideration, the authority shall act upon projects recommended by the superintendent of public instruction and approved by the state board for occupational education.

(4) When a school for the deaf or a school for the blind project is under consideration, the authority will act upon the project recommended by the superintendent of public instruction and approved by the state board for elementary and secondary education.

(5) When a project for a vocational rehabilitation facility is under consideration, the authority shall act upon projects recommended by the superintendent of public instruction and approved by the state board for occupational education.

The Committee Amendment No. 1 to **HB 627** is as follows:

Amend printed copy of **HB 627,** page 11, line 3, by deleting after "the" the following language: "governor after consultation with the"; and on

page 11, line 4, by inserting after "instruction" the following: "in accordance with the provisions of KRS 12.050".

The Committee Amendment No. 2 to **HB 627** is as follows:

Amend printed copy of **HB 627,** page 7, line 3, delete the word "and";

and on line 6 delete "." and insert "; and in lieu thereof"

and after line 6, insert the following:

"(k) The chairman of the interim joint committee on education."

The Committee on Health and Welfare reported **HB 497, HB 530** with Committee Amendment attached thereto, **HB 553, HB 650, HB 717, HJR 38, SB 166, SB 200, HB 78** with Committee Substitute, and Committee Amendment attached thereto, and **HB 555** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 497, AN ACT relating to emergency care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.453 is amended to read as follows:

(1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his inability to pay for services to be rendered by the hospital.

(2) Every hospital of this state which offers emergency services shall provide that a physician is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS Chapter 510. The physician shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence.

(3) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems.

(4) Notwithstanding any other provision of law, a minor may consent to examination under this Act. Such consent is not subject to disaffirmance because of minority and consent of the parents or guardians of the minor is not required for such examination.

HB 530, AN ACT relating to the criminally insane.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The bureau of corrections shall administer a program of care for individuals who have been convicted or found not guilty of a crime as a result of insanity.

SECTION 2. A NEW SECTION OF KRS CHAPTER 202A IS CREATED TO READ AS FOLLOWS:

Any person convicted or found not guilty of a crime as a result of insanity shall remain in a facility for the criminally insane until he is "cured" of his mental illness. Such person shall be deemed "cured" of his mental illness subsequent to being thoroughly examined by two licensed psychiatrists and a licensed medical doctor, all of whom agree that the patient is not a threat to society.

SECTION 3. A NEW SECTION OF KRS CHAPTER 29A IS CREATED TO READ AS FOLLOWS:

During the trial of a person who pleads not guilty by reason of insanity the trial judge shall include in his charge to the jury an instruction embodying the language in Section 2 of this Act.

The Committee Amendment to **HB 530** is as follow:s

Amend printed copy of **HB 530,** page 1, line 5, by inserting after the words "result of" the following words "the defense of"

and on line 9, by inserting after the words "result of" the following words "the defense of"

HB 553, AN ACT relating to public records and reports of the Kentucky department for human resources.

WHEREAS, there has not been a logical, systematic procedure of information sharing regarding the compilation and publication of all public reports and records of the Kentucky department for human resources;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky department for human resources shall compile a complete list and brief summaries of all reports, projects, and research documents that have been generated by the department and that have been published or filed internally, within the agency, or externally, with any other agency, be it local, state or federal. The list shall be cumulative, updated monthly, and filed with the library of the legislative research commission. Upon request by any citizen or agency, the department for human resources shall make available a copy of the requested document free of charge.

(2) Excluded from the purview of subsection (1) of this section are all confidential records and reports encompassed in KRS 194.060, or in any current or future legislation that requires confidentiality of records and reports.

HB 650, AN ACT relating to emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.455 is amended to read as follows:

Nothing in KRS 216.405 to 216.485 or the rules and regulations adopted under the provisions of KRS 216.405 to 216.485 shall be construed to authorize the licensure, supervision, regulation or control in any manner of:

(1) Private offices and clinics of physicians, dentists and other practitioners of the healing arts.

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employes, provided that such facility does not contain inpatient or resident beds for patients or employes who generally remain in the facility for more than twenty-four hours.

(3) Establishments, such as motels, hotels and boarding houses which provide domiciliary and auxiliary commercial services, but do not provide medical, nursing personnel and health related services, including, but not limited to, boarding houses which are operated by persons contracting with the United States veterans administration hospitals for boarding services.

(4) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination.

(5) On-duty police and fire department personnel assisting in emergency situations by providing first-aid or transportation when regular emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

HB 717, AN ACT relating to cancer and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) It is hereby declared to be the intent of the general assembly to reduce the incidence, morbidity, and mortality rates for cancer in Kentucky by improving cancer prevention, detection, diagnosis, therapy, rehabilitation and continuing care activities for the citizens of the Commonwealth.

(2) In addition, the provisions of this Act are intended to encourage and support research, educational, and management programs which provide new knowledge of cancer prevention, detection, diagnosis, therapy, and rehabilitation, and to enable the rapid and continuing transfer of this new knowledge to the public and the community health providers who care for about eighty-five percent (85%) of all cancer patients.

(3) It is intended that the implementation of the provisions of this Act could lead to Kentucky's recognition as a regional comprehensive cancer center program and thus qualify Kentucky for additional and substantial federal funds to support cancer-related research and control activities.

(4) The provisions of this Act are intended to permit statewide coordination of cancer research, education, and control activities, but shall not be deemed in any way to be intended to interfere with the private practice of medicine in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky cancer commission is hereby created. The commission shall be composed of eleven (11) members nine (9) of whom shall be appointed by the governor as follows: The executive director of the east Kentucky health systems agency, the executive director of the Kentucky health systems agency west, incorporated, the president of the Kentucky farm bureau federation, one (1) representative of the University of Kentucky, one (1) representative of the University of Louisville, two (2) citizens, one (1) representative of the Kentucky medical association, and one (1) representative of the Ephraim McDowell Community Cancer Network, Incorporated. The two (2) remaining commission members shall be members of the Kentucky general assembly, one (1) of whom shall be appointed by the speaker of the house of representatives and one (1) of whom shall be appointed by the president pro-tempore of the senate.

(2) The following three (3) members shall be permanent members of the commission by virtue of their office: The executive director of the east Kentucky health systems agency, the executive director of the Kentucky health systems agency west, incorporated, and the president of the Kentucky farm bureau federation. The two (2) members of the general assembly shall serve for a term of two (2) years each. The remaining six (6) members shall serve for a term of four (4) years, except that the first appointments shall be made as follows: One (1) for a term of one (1) year; one (1) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years.

(3) No member of the commission shall receive any salary, fee or other remuneration for his services as a member of the commission but each member shall be reimbursed for his ordinary travel expenses, including meals and lodging, incurred in the performance of his duties incident to implementation of the provisions of this Act.

(4) The commission shall elect, by a majority vote of the eleven (11) members, a chairman who shall be presiding officer of the commission, shall preside at all meetings, and coordinate the functions and activities of the commission. The chairman shall be elected or re-elected annually. The commission shall have such other organization as deemed necessary and approved by the commission.

(5) The commission may appoint such advisory committees as are deemed necessary to administer the provisions of this Act.

(6) Meetings of the commission shall be held at least quarterly but may be held more frequently as deemed necessary subject to call by the chairman or by request of a majority of commission members. Commission meetings shall concern, among other things, policy matters relating to cancer research, educational and management programs and projects, research progress reports, authorization of projects and financial plans, and such other matters as necessary to carry out the intent of this Act.

(7) Eight (8) members of the commission shall constitute a quorum for doing business. Each member shall have one (1) vote and a majority vote of the members present shall control on all questions.

(8) The commission may employ such reasonable number of staff as deemed necessary to perform their duties authorized under this Act. Any operating expenses shall be paid through the funds appropriated under Section 7 of this Act.

(9) The governor shall allocate space for the commission to hold their meetings and a place in which to store their material.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky cancer commission shall review and authorize cancer research, educational and management programs and projects authorized under subsection (2) of this section and financed under Section 7 of the Act. When, after diligent search, it is determined by the commission that adequate facilities are not available in the Commonwealth to support the activities intended by this Act, the commission may use funds appropriated under Section 7 of this Act and any other available funds to construct cancer research facilities. Any such facilities constructed shall be affiliated with one (1) or both university medical centers.

(2) In addition, the powers and duties of the Kentucky cancer commission shall be to:

(a) Develop a coordinated statewide cancer program to reduce the incidence, morbidity, and mortality rates for cancer in the Commonwealth;

(b) Improve cancer prevention, detection, diagnosis, therapy, rehabilitation, and continuing care programs for citizens of the Commonwealth;

(c) Support research directed toward the improvement of cancer prevention, detection, diagnosis, therapy, and rehabilitation;

(d) Support research into the identification and elimination within the Commonwealth of cancer-causing agents;

(e) Establish and maintain a centralized statewide tumor documentation system for recording all cancer cases which shall be utilized for follow-up and epidemiological studies including the monitoring of the efficacy of new therapy regimens being given to cancer patients;

(f) Improve the quality and availability of cancer care particularly in those regions of the Commonwealth that are severely medically underserved;

(g) Formulate policies and procedures as necessary to carry out the provisions of this Act;

(h) Promulgate rules and regulations, to be filed with the legislative research commission as provided in KRS Chapter 13, as necessary to carry out the provisions of this Act and to insure proper expenditure of funds appropriated under Section 7 of this Act;

(i) Provide the governor, the general assembly, and the legislative research commission with an annual report by January 30 of each year showing the status of funds expended under this Act and the purposes for which such funds were expended; and

(j) Approve and release public statements relating to the progress and results of cancer research, educational and management programs.

(3) The Kentucky cancer commission may:

(a) Accept any grants for programs or projects authorized under the provisions of this Act;

(b) Make grants to any nonprofit organizations, agencies, or institutions conducting cancer research, education, and management programs which will accomplish the purposes of this Act; and

(c) Provide for the subcontracting to organizations, agencies or institutions conducting cancer research, education and management programs a small percentage of grants provided under subsection (3)(b) of this section if such program or any component part thereof cannot be performed by any nonprofit organization, agency, or institution eligible to receive such grants.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) The funds appropriated under Section 7 of this Act shall be credited to the Kentucky cancer commission trust fund which is hereby created.

(2) Federal funds which may be made available to supplement or match state funds for cancer programs provided for by this Act shall be credited to the Kentucky cancer commission trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the Kentucky cancer commission trust fund shall be used to finance the programs authorized by this Act and for no other purpose except as provided in subsection (5) of this section.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, provided, however, that such surplus shall be included in the budget considered and approved by the commission for the ensuing period.

(5) Any funds available to the tobacco research trust fund and any other state agencies may be transferred to the Kentucky cancer commission trust fund provided such funds are only used for programs authorized under this Act.

Section 5. KRS 248.540 is amended to read as follows:

(1) The tax revenues received from the additional one-half-cent (1/2 ¢) tax levied by chapter 255 of the acts of 1970 shall be credited to a tobacco research-trust fund which is hereby created.

(2) Federal funds which may be made available to supplement or match state funds for tobacco research programs provided for by KRS 248.510 to 248.570 shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the tobacco research-trust fund shall be used to finance the tobacco research programs authorized under the provisions of KRS 248.510 to 248.570 and for no other purpose *except as provided in Section 4 of this Act.*

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium, provided, however, that such surplus shall be included in the budget considered and approved by the board for the ensuing period.

Section 6. KRS 248.550 is amended to read as follows:

(1) The amount of revenues collected and/or credited to the tobacco research-trust fund shall be appropriated each year to the University of Kentucky tobacco and health research institute to finance tobacco

research projects and programs as provided in KRS 248.510 to 248.570 and shall be expended by the institute only on those projects and programs authorized by the Kentucky tobacco research board *except as provided in Section 4 of this Act.*

(2) The department of revenue shall supply revenue estimates of the amount of revenue anticipated to be collected during each fiscal year by the added one-half cent (1/2 ¢) tax on cigarettes which estimate, along with any federal funds available, shall be the basis for preparing tobacco research programs and budget requests for each fiscal year.

Section 7. To carry out the purposes of this Act, there is appropriated to the Kentucky cancer commission the sum of $1,000,000 for the fiscal year 1978-1979, and $1,000,000 for the fiscal year 1979-1980 from the general fund of the state treasury of the Commonwealth.

HJR 38, A JOINT RESOLUTION to establish a special study commission to survey and define the needs of diabetic patients in the Commonwealth of Kentucky and making an appropriation therefor.

WHEREAS, diabetes mellitus is estimated to afflict at least 5% of the total population of the United States; and

WHEREAS, although exact figures on the prevalence of diabetes in the Commonwealth of Kentucky are not available, estimates indicate that the prevalence of diabetes in Kentucky may be higher than the national average; and

WHEREAS, diabetes mellitus is believed to be the third leading cause of death; and

WHEREAS, diabetes mellitus is the leading cause of blindness, kidney failure, neurological disease and amputations in America and would be expected to have a similar impact in Kentucky; and

WHEREAS, the estimated incidence of heart attacks among diabetics is 2.3 times higher than for the population as a whole in America and the estimated incidence of strokes is 1.5 times higher; and

WHEREAS, diabetes mellitus in its various forms affects Americans of all ages, ranging from infants to aged persons;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That a special study commission is hereby created for a period of two years to survey the dimensions of problems of diabetics in Kentucky, and ascertain and define their needs.

Section 2. That the Governor appoint the members of the Commission as follows: The Director of Preventive Services, Bureau for Health Services, Department for Human Resources, who shall serve as chairman of the commission; two diabetologists from the University of Kentucky and two diabetologists from the University of Louisville, such selections to be made from lists submitted to the Governor by the deans of the respective medical schools; two representatives from the Kentucky Diabetes Association to be selected from a list submitted by the association and two health professionals interested in diabetes, one from the eastern portion of the state, the other from the western portion, such persons to be selected from a list prepared by the Director of Preventive Services.

Section 3. Members of the commission shall receive no salary but shall be reimbursed for their ordinary and necessary expenses incurred in performance of their duties.

Section 4. The commission shall meet at least quarterly and shall report at least annually to the Interim Joint Committee on Health and Welfare, and shall report its findings and recommendations to the 1980 Regular Session of the General Assembly.

Section 5. In order to effectuate the purposes of this resolution, thirty thousand dollars ($30,000) is hereby appropriated from the General Expenditure Fund of the State Treasury for the fiscal year 1978-1979 and thirty thousand dollars ($30,000) for the fiscal year 1979-1980.

SB 166, AN ACT relating to medical laboratories.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 333.040 is amended to read as follows:

This chapter applies to all medical laboratories within the state of Kentucky, except:

(1) Medical laboratories operated by the United States government;

(2) *Medical laboratories operated by a licensed physician, or a group of licensed physicians, solely and exclusively in connection with the diagnosis and treatment of their own patients; if any referred work is received or performed by such medical laboratories, all provisions of this chapter shall apply;*

(3) Medical laboratories operated by hospitals licensed by the secretary for human resources;

(4) [(3)] Medical laboratories operated and maintained exclusively for research purposes, involving no patient or public health service whatsoever.

SB 200, AN ACT relating to podiatry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.380 is amended to read as follows:

As used in KRS 311.390 to 311.510, unless the context otherwise requires:

(1) "Board" means the state board of podiatry;

(2) "Podiatry" *is that profession of the health sciences which deals with the examination, diagnosis, treatment, and prevention of diseases, conditions, and malfunctions affecting the human foot and its related or governing structures, by employment of medical surgical or other means* [means the diagnosis, and the medical and the surgical and the mechanical treatment, of the human foot with exception of amputation of the human foot];

(3) "Podiatrist" *is a physician and surgeon who has graduated from a college of podiatric medicine accredited by the Council on Podiatry Education of the American Podiatry Association or approved by state licensing boards* [means one who practices podiatry].

HB 78, AN ACT relating to the immunization of children and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The Department for Human Resources shall maintain a statewide program to immunize every child prior to enrollment in school. The Department shall assume an affirmative obligation to identify and immunize every child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

County health departments shall cooperate with the Department for Human Resources to accomplish the objectives of this Act. A continuing publicity and public education effort shall be maintained by the county health departments and the Department for Human Resources to promote utilization of the program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The immunizations shall be available at no cost to the child or to the child's parents, guardians, or other persons having care, custody, or control of the child.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall be interpreted to relieve the parents, guardians, or other persons having the legal responsibility for a child of their duty under KRS 214.034 to have their child immunized.

Section 5. There is hereby appropriated to the Department for Human Resources out of the General Fund for the purpose of carrying out the provisions of this Act $250,000 for the fiscal year 1978-79 and $250,000 for the fiscal year 1979-80, which sums shall not lapse.

The Committee Substitute to **HB 78** is as follows:

HB 78, AN ACT relating to the immunization of children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:
The Department for Human Resources shall maintain a statewide program to immunize every child prior to enrollment in school. The Department shall assume an affirmative obligation to identify and immunize every child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:
County health departments and local boards of education shall cooperate with the Department for Human Resources to accomplish the objectives of this Act. A continuing publicity and public education effort shall be maintained by the county health departments, local boards of education and the Department for Human Resources to promote utilization of the program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:
The immunizations shall be available at no cost to the child or to the child's parents, guardians, or other persons having care, custody, or control of the child.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:
Nothing in this Act shall be interpreted to relieve the parents, guardians, or other persons having the legal responsibility for a child of their duty under KRS 214.034 to have their child immunized.

The Committee Amendment to the Committee Substitute to **HB 78** is as follows:

Amend printed copy of **HB 78/HCS,** page 2, line 7, by adding a new Section 5 to read as follows:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

This Act shall be in compliance with and in conjunction with KRS 214.036."

HB 555, AN ACT relating to the practice of medicine and osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:
As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure, or any assistant secretary thereof appointed as such by the board;

(4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;

(6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the secretary to be qualified and eligible therefor;

(7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty days.

(8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the department for human resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the department for human resources by KRS chapter

211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(10) "Physician" means a doctor of medicine or a doctor of osteopathy.

(11) As used in KRS 311.595(1)(d), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 2. KRS 311.555 is amended to read as follows:

It is the declared policy of the general assembly of Kentucky that the practice of medicine and osteopathy, should be regulated and controlled as provided in KRS 311.550 to 311.620 in order to prevent empiricism and to protect the health and safety of the public. *Further, the general assembly of Kentucky has created the board, as defined in KRS 311.530, to function as an independent board, the majority of whose members are licensed physicians, with the intent that such a peer group is best qualified to regulate, control and otherwise discipline the licensees who practice medicine and osteopathy within the Commonwealth of Kentucky. In furtherance of this intent, the judiciary of the Commonwealth of Kentucky, who may be caused to review the actions of the board, shall modify, remand or otherwise disturb those actions only in the event:*

(a) That the action of the board constitutes a clear abuse of its discretion;

(b) That the action of the board is clearly beyond its legislative delegated authority; or

(c) That the action of the board violated the procedure for disciplinary action as described in Section 5 of this Act.

Section 3. KRS 311.570 is amended to read as follows:

(1) No person shall be eligible for a regular license under KRS 311.550 to 311.620, unless

(a) At least eighteen years of age,

(b) Of good moral character,

(c) Able to speak and write the English language,

(d) Graduated from an accredited high school or its equivalent and satisfactorily completed and graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board during the entire period of attendance thereat,

(e) Satisfactorily completed at least a one-year internship or a prescribed course of postgraduate training of not less than one year in an institution approved by the board, and

(f) Possessing all of the other qualifications that may be prescribed by rules and regulations of the board.

Provided, however, that the foregoing shall not be construed to prohibit the board from issuing a regular license to persons who have attended medical or osteopathic schools or colleges situated outside the United States or Canada if such schools or colleges are approved by the board and if such persons have been certified by the Education Council for Foreign Medical Graduates, or its equivalent.

(2) Subject to the exceptions set out herein, no person who possesses the qualifications set out in paragraphs (a), (b) and (c) of subsection (1) of this section, and who has been graduated from an accredited high school, has satisfactorily completed a premedical course of instruction of at least two years in an accredited college or university, has satisfactorily completed and been graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the American Medical Association or the American Osteopathic Association during the entire period of attendance thereat, and who has completed an internship of one year or a course of postgraduate training of not less than one year's duration approved by the board in a hospital approved for such training by the same associations, shall be denied admission to the examination in this state for a regular license, upon payment of the prescribed fee. However, the board may deny admission to the examination or refuse to issue a license upon successful passage of the examination upon proof that the applicant:

(a) Has been convicted for violating any state or federal narcotic or barbiturate law,

(b) Has failed the examination in another state or has had his license suspended or revoked in some other state,

(c) Has been convicted of a felony,

(d) Is emotionally unstable,

(e) Has been adjudged to be of unsound mind,

(f) Has violated KRS 311.585, or

(g) Has engaged in any acts or conduct that would constitute grounds for suspension or revocation of a license under KRS 311.550 to 311.620.

(3) No person shall be eligible for a limited license unless

(a) At least eighteen years of age,

(b) Of good moral character,

(c) Able to speak and write the English language,

(d) Actually residing in Kentucky at the time of making application or expressing in writing an intention to become an actual resident of this state after issuance of the limited license,

(e) Has been graduated from an accredited high school or its equivalent and has satisfactorily completed and been graduated from a prescribed course of instruction in a medical school approved by the board for limited licenses,

(f) Has successfully completed the examination conducted by the Education Council for Foreign Medical graduates, or its equivalent, and

(g) Possesses all the other qualifications and education that may be prescribed by rules and regulations of the board.

Provided, however, that all limited licenses issued by the Department for Human Resources prior to September 1, 1972, may be renewed by the State Board of Medical Licensure if the applicant meets the statutory requirements which were in effect at the time he was first granted a limited license, and such limited licensees shall be entitled to regular licenses whenever they can meet the requirements of this chapter.

(4) Except as provided by subsection (2) (g) of KRS 311.565 no license shall be issued except upon the successful passage of an examination as prescribed by the board. All applicants for a regular license must take the same general examination, and in addition, osteopathic applicants shall take an examination in osteopathic principles and practice.

(5) No person shall be deemed to have successfully passed an examination in this state unless he makes an *overall average of at least seventy-five on the entire examination* [average grade of at least seventy-five in all subjects or sections prescribed by the board, and a grade of at least sixty-five in each subject or section].

(6) No license shall be issued, refused, suspended, limited, restricted or revoked by the board, nor shall any licensee be placed on probation, except in compliance with KRS 311.550 to 311.620 and the rules and regulations promulgated thereunder by the board and filed pursuant to KRS Chapter 13.

Section 4. KRS 311.595 is amended to read as follows:

(1) Where such power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application for a license; place a licensee on probation for a period not to exceed five years; suspend a license for a period not to exceed five years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(b) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license.

(c) Committed, procured or aided in the procurement of an unlawful abortion.

(d) Been convicted, *by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or any act which is a misdemeanor, under such laws, involving moral turpitude* [of a felony involving moral turpitude. The conviction of any offense in another state, territory or country, which if committed in this state would be deemed a felony shall be held to be a felony under this section without regard to its designation in such other state, territory or country].

(e) Become addicted to a *controlled substance* [drug habit].

(f) Become a chronic or persistent alcoholic.

(g) Developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public. [In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him (unless the failure was due to circumstances beyond his control) consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician whose license has been suspended, limited, restricted or revoked under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients].

(h) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(i) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(j) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed; or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(k) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board.

(l) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board.

(m) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, *or impersonates another practitioner of a like, similar or different name.*

(n) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(o) Willfully violated a confidential communication.

(p) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

(q) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the Trustees of the rural Kentucky medical scholarship fund.

(r) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, provided the patient has full knowledge of this division and provided the division is made in proportion to the services performed and responsibility assumed by each.

(s) Been removed, suspended or expelled by any professional medical association or society when such action was based upon what said association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311.

(t) Been disciplined by a licensed hospital or medical staff of said hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, or other disciplinary action if such action was based upon what said hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311.

(2) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise such a person of the nature, time and place thereof. Proceedings and forms shall be in accordance with rules and regulations of the board, and hearings may be conducted by hearing officers of the board as provided in subsection (2)(b) of KRS 311.565, but no hearing shall be conducted until at least thirty days' written notice thereof has been given to the holder of the license, who shall have the right to be present, in person or by counsel, and to present evidence and to be heard in opposition to the charges which may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceedings before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in this subsection, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty days after notice is given to the licensee, unless said licensee, within thirty days from the giving of such notice, appeals therefrom in the manner provided by subsection (4) of this section. Provided, however, that the board may, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and safety of the licensee's patients or the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of same, engage or continue to engage in any prohibited practice under the license unless and until the order is reversed or modified by a final and unappealable order or judgment of a court made pursuant to the provisions of subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting or revoking his license may procure a declaration of rights under the

Declaratory Judgment Act by filing, within thirty days after notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficent sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served upon the secretary for and on behalf of the board, and the secretary shall, within thirty days after such service and the filing of said bond, file with the court a transcript of the record of hearing together with a certified copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act.

(5) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, which is given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address as it appears in the files of the board shall be sufficient.

(6) All members of the board, and its secretary and hearing officer, have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension or revocation.

(7) The board may compel the attendance of witnesses at hearings in connection with disciplinary proceedings, and circuit and county courts are, upon petition of the board or its hearing officer, authorized and empowered to punish as contempt all failures to obey subpoenas and other process provided in subsection (6) of this section and all contemptuous or contumacious conduct directed to the board or its hearing officer in the course of disciplinary proceedings.

SECTION 5. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise the licensee of the nature, time and place thereof. Proceedings and forms shall be in accordance with the rules and regulations of the board, and hearings may be conducted by hearing officers of the board as provided in subsection (2)(b) of KRS 311.565, but no hearing shall be conducted until at least thirty (30) days' written notice thereof has been given to the holder of the license, unless said period be waived by the licensee, and who shall have the right to be present, in person and/or by counsel, and to present evidence and to be heard in opposition to the charges.

(2) Charges may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to the adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceeding before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in Section 7 of this Act, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty (30) days after notice is given to the licensee, unless said licensee, within thirty (30) days from the giving of such notice, appeals therefrom in the manner provided by subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting, or revoking his license may procure a declaration of rights under the Declaratory Judgment Act by filing, within thirty (30) days after the notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficient sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served on the secretary for and on behalf of the board, and the secretary shall, within thirty (30) days after such service and the filing of said bond, file with the court a transcript of the record of the hearing together with a certified copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court.

(5) In the event the action of the board is not sustained, the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree of the circuit court may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act.

(6) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, shall be given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address, or licensee's attorney of record, as said respective addresses may appear in the files of the board.

(7) All members of the board, and its secretary and hearing officer, have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension, revocation or other disciplinary action.

(8) The board may compel the attendance of witnesses at hearings in connection with disciplinary proceedings, and circuit and district courts are, upon petition of the board or its hearing officer, authorized and empowered to punish as contempt all failure to obey subpoenas and other process provided in subsection (7) of this section and all contemptuous or contumacious conduct directed to the board or its hearing officer in the course of disciplinary proceedings.

SECTION 6. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

As used in KRS 311.595(1)(h) "dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" shall include, but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any "controlled substance" as defined in KRS 218A.010(2):

(a) With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose,

(b) With the intent to evade any law with respect to sale, use or disposition of such controlled substance(s),

(c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice, or

(d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards.

(2) Issues or publishes in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

(a) Any representation in which the licensee claims that he can cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value;

(b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice:

1. Other than that for which he holds a certificate or license granted by the board, or
2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or
3. Under a school or system which he professes to be self-taught.

(3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence or malpractice.

(4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American medical association or the code of ethics of the American osteopathic association. For the purposes of this subsection, actual injury to a patient need not be established.

(5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in Section 10 of this Act.

SECTION 7. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) The board may order a temporary suspension, limitation or restriction upon a licensee when in the board's opinion, based upon sufficient reasonable cause, the continued practice by the licensee would constitute a danger to the health, welfare and safety of the licensee's patients or to the general public; the board may issue such a temporary order simultaneously with a complaint against the licensee, or at any time after the filing of the complaint against the licensee until such time as the complaint is heard.

(2) Any such temporary order suspending, limiting or restricting a license shall be effective when issued, and the licensee shall not, after notice of the order, engage in or continue to engage in any prohibited practice

under that license unless and until the order is reversed, modified, or withdrawn.

(3) In the event that the board should issue a temporary order suspending, limiting or restricting a license simultaneously with a complaint against the licensee or before a hearing is held upon the complaint, the board shall, upon written request by the licensee, hold the hearing on the complaint within ten (10) days of such written request. Further, within five (5) days of said hearing, the board or the hearing officer on behalf of the board, shall issue an order to the licensee sustaining, modifying or withdrawing the temporary order during the pendency of the proceedings.

(4) The board may, after the hearing on the complaint, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and safety of the licensee's patients or to the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of said order, engage or continue to engage in any prohibited practice under that license unless and until the order is reversed, modified, or withdrawn.

(5) Any licensee who is aggrieved by an order of the board placing the licensee under suspension, limitation or restriction during the pendency of the action concerning his license, may, after the hearing of the complaint as described in subsection (3) or subsection (4) above of this section, petition the circuit court of the county in which the board's offices are located for the appropriate relief reversing or modifying the board's order; the petition shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order, the licensee shall simultaneously file a bond together with good and sufficient sureties thereon to cover all costs. Summons and a copy of the petition may be served upon the board secretary for and on behalf of the board, and the secretary shall within ten (10) days after such service and the filing of said bond, file with the court a transcript of the record of the hearing together with a copy of the order in controversy. The board may file an answer, or other such pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, manner and method as provided in the Rules of Civil Procedure.

SECTION 8. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) To assist the board in enforcing the provisions of KRS 311.595(1)(g), the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. The board may issue such an order to a licensee in conjunction with a complaint against the licensee or at anytime during the proceedings, when in the board's opinion such action is deemed necessary in order to ascertain the licensee's ability to practice competently.

(2) Failure of a physician to submit to such an examination when directed, unless the failure was due to circumstances beyond his control, shall constitute an admission that the concerned physician has developed such a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

(3) A physician whose license has been suspended, limited, restricted or revoked under this section and KRS 311.595(1)(g), shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

SECTION 9. A NEW SECTION OF KRS 311.601 TO 311.603 IS CREATED TO READ AS FOLLOWS:

(1) In order to assist a licensee in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595, the licensee may request an opinion of the board by written request submitted to the secretary; the board shall cause a written response to be made to each requesting licensee.

(2) In formulating a response to a request, the board may request an opinion from any concerned medical or osteopathic professional association or society; however, the board shall not be bound by such a supplemental opinion.

(3) The board shall keep a permanent record of all such requests made and the response thereto; further, the board shall publish, not less than every two (2) years, the requests and responses as described herein.

SECTION 10. A NEW SECTION OF KRS 311.605 TO 311.610 IS CREATED TO READ AS FOLLOWS:

(1) In order to assist the board in the enforcement of KRS 311.595(1)(s) and (t), any professional medical association or society operating in the Commonwealth of Kentucky, or any hospital or medical staff of said hospital located in the Commonwealth of Kentucky, shall report all actions taken against a licensed physician as described in KRS 311.595(1)(s) and KRS 311.595(1)(t) to the board within thirty (30) days of the

final adjudication of said action together with all pertinent documents to include but not limited to transcripts, pleadings and certified copy of the final order.

(2) In order to assist the board in the enforcement of the provisions of KRS Chapter 311, any licensed physician who observes another licensed physician violating a provision of KRS Chapter 311 shall submit a written report to the board, or to the board and the concerned medical association or society, or to the board and the concerned hospital or medical staff of the hospital within ten (10) days of observing such a violation or obtaining other direct knowledge of such a violation; the report shall contain the name of the licensed physician believed to be in violation of a provision of KRS Chapter 311, a detailed account of the concerned actions, a list of all other witnesses to said actions, and the name of the physician submitting the report.

(3) Members of any professional medical association or society, medical and/or hospital staff, or licensed physician who shall submit to the board a report as described in this section, shall be immune from suit in any action concerning a report which is based upon any official act or acts performed by them in good faith as members of that respected body or society, or concerning a report by a licensed physician submitted in good faith as required by subsection (2) of this section.

(4) All clerks of the circuit and district courts in the Commonwealth of Kentucky shall report to the secretary of the board all criminal convictions of licensees that may occur in their respective courts. The report shall contain the name of the licensee, the sentence imposed against the licensee, and whether the sentence imposed upon the licensee has been appealed.

SECTION 11. A NEW SECTION OF KRS 311.605 TO 311.610 IS CREATED TO READ AS FOLLOWS:

(1) Except for disciplinary actions taken pursuant to KRS 311.595(1)(g) and Section 8 of this bill, a licensee who has had his license revoked may, after two (2) years from the effective date of the revocation order, petition the board for a license to again practice in the Commonwealth of Kentucky.

(2) The board shall not be required to issue a new license as described in subsection (1) above, and the former license holder so petitioning the board shall be required to show convincing and compelling reason why a license should be granted.

(3) In the event that the board should issue a new license under the circumstances as described in this section, the new license shall be under probation for a period of not less than two (2) years nor more than five (5) years, and any subsequent violation during the probation period shall result in automatic revocation of license.

Section 12. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred and fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred and fifty ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(11) Any physician who fails to comply with the provisions of KRS 311.730, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(12) Failure to procure the informed consent of those required to give their consent pursuant to KRS 311.740, prior to performing an abortion shall be punishable by imprisonment in the county jail not to exceed one (1) year or a fine not to exceed one thousand dollars ($1,000), or both.

(13) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(14) Any person who violates KRS 311.760(2), 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(15) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(16) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or a fine in a sum not to exceed one thousand dollars ($1,000), or both.

(17) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of Section 10 of this Act, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in Section 10 of this Act.

The Committee Substitute to **HB 555** is as follows:

HB 555, AN ACT relating to the practice of medicine and osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and 311.990 (8) to (11):

(1) "Board" means the state board of medical licensure;

(2) "President" means the president of the state board of medical licensure;

(3) "Secretary" means the secretary of the state board of medical licensure, or any assistant secretary thereof appointed as such by the board;

(4) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(5) "Limited license" means a license to practice medicine in a specific institution to the extent indicated in said license, except that no person who is the holder of a limited license on September 1, 1972, shall be restricted to an institutional practice without his consent;

(6) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears (from verified information in the application) to the secretary to be qualified and eligible therefor;

(7) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing him to practice in this state for the duration of a specific medical emergency, not to exceed thirty days.

(8) Except as provided in subsection (9) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices or instrumentalities.

(9) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the performance of duties for which they have

been trained by emergency medical technicians or medical emergency dispatchers certified by the department for human resources, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised or represented as being for the treatment, correction, cure or relief of any human ailment, disease, injury, infirmity or condition, in regular mercantile establishments, or the practice of midwifery by women; provided, however, that KRS 311.550 to 311.620 shall not be construed as repealing the authority conferred on the department for human resources by KRS chapter 211 to provide for the instruction, examination, licensing and registration of all midwives through county health officers.

(10) "Physician" means a doctor of medicine or a doctor of osteopathy.

(11) As used in KRS 311.595(1)(d), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation.

Section 2. KRS 311.555 is amended to read as follows:

It is the declared policy of the general assembly of Kentucky that the practice of medicine and osteopathy, should be regulated and controlled as provided in KRS 311.550 to 311.620 in order to prevent empiricism and to protect the health and safety of the public. *Further, the general assembly of Kentucky has created the board, as defined in KRS 311.530, to function as an independent board, the majority of whose members are licensed physicians, with the intent that such a peer group is best qualified to regulate, control and otherwise discipline the licensees who practice medicine and osteopathy within the Commonwealth of Kentucky. In furtherance of this intent, the judiciary of the Commonwealth of Kentucky, who may be caused to review the actions of the board, shall modify, remand or otherwise disturb those actions only in the event:*

(a) That the action of the board constitutes a clear abuse of its discretion;

(b) That the action of the board is clearly beyond its legislative delegated authority; or

(c) That the action of the board violated the procedure for disciplinary action as described in Section 5 of this Act.

Section 3. KRS 311.570 is amended to read as follows:

(1) No person shall be eligible for a regular license under KRS 311.550 to 311.620, unless

(a) At least eighteen years of age,

(b) Of good moral character,

(c) Able to speak and write the English language,

(d) Graduated from an accredited high school or its equivalent and satisfactorily completed and graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board during the entire period of attendance thereat,

(e) Satisfactorily completed at least a one-year internship or a prescribed course of postgraduate training of not less than one year in an institution approved by the board, and

(f) Possessing all of the other qualifications that may be prescribed by rules and regulations of the board.

Provided, however, that the foregoing shall not be construed to prohibit the board from issuing a regular license to persons who have attended medical or osteopathic schools or colleges situated outside the United States or Canada if such schools or colleges are approved by the board and if such persons have been certified by the Education Council for Foreign Medical Graduates, or its equivalent.

(2) Subject to the exceptions set out herein, no person who possesses the qualifications set out in paragraphs (a), (b) and (c) of subsection (1) of this section, and who has been graduated from an accredited high school, has satisfactorily completed a premedical course of instruction of at least two years in an accredited college or university, has satisfactorily completed and been graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the American Medical Association or the American Osteopathic Association during the entire period of attendance thereat, and who has completed an internship of one year or a course of postgraduate training of not less than one year's duration approved by the board in a hospital approved for such training by the same associations, shall be denied admission to the examination in this state for a regular license, upon payment of the prescribed fee. However, the board may deny admission to the examination or refuse to issue a license upon successful passage of the examination upon proof that the applicant:

(a) Has been convicted for violating any state or federal narcotic or barbiturate law,

(b) Has failed the examination in another state or has had his license suspended or revoked in some other state,

(c) Has been convicted of a felony,

(d) Is emotionally unstable,

(e) Has been adjudged to be of unsound mind,

(f) Has violated KRS 311.585, or

(g) Has engaged in any acts or conduct that would constitute grounds for suspension or revocation of a license under KRS 311.550 to 311.620.

(3) No person shall be eligible for a limited license unless

(a) At least eighteen years of age,

(b) Of good moral character,

(c) Able to speak and write the English language,

(d) Actually residing in Kentucky at the time of making application or expressing in writing an intention to become an actual resident of this state after issuance of the limited license,

(e) Has been graduated from an accredited high school or its equivalent and has satisfactorily completed and been graduated from a prescribed course of instruction in a medical school approved by the board for limited licenses,

(f) Has successfully completed the examination conducted by the Education Council for Foreign Medical graduates, or its equivalent, and

(g) Possesses all the other qualifications and education that may be prescribed by rules and regulations of the board.

Provided, however, that all limited licenses issued by the State Board of Health prior to September 1, 1972, may be renewed by the State Board of Medical Licensure if the applicant meets the statutory requirements which were in effect at the time he was first granted a limited license, and such limited licensees shall be entitled to regular licenses whenever they can meet the requirements of this chapter.

(4) Except as provided by subsection (2) (g) of KRS 311.565 no license shall be issued except upon the successful passage of an examination as prescribed by the board. All applicants for a regular license must take the same general examination, and in addition, osteopathic applicants shall take an examination in osteopathic principles and practice.

(5) No person shall be deemed to have successfully passed an examination in this state unless he makes an *overall average of at least seventy-five on the entire examination* [average grade of at least seventy-five in all subjects or sections prescribed by the board, and a grade of at least sixty-five in each subject or section].

(6) No license shall be issued, refused, suspended, limited, restricted or revoked by the board, nor shall any licensee be placed on probation, except in compliance with KRS 311.550 to 311.620 and the rules and regulations promulgated thereunder by the board and filed pursuant to KRS Chapter 13.

Section 4. KRS 311.595 is amended to read as follows:

(1) Where such power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application for a license; place a licensee on probation for a period not to exceed five years; suspend a license for a period not to exceed five years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(a) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(b) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license.

(c) Committed, procured or aided in the procurement of an unlawful abortion.

(d) Been convicted, *by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemenor, under such laws* [of a felony involving moral turpitude. The conviction of any offense in another state, territory or country, which if committed in this state would be deemed a felony shall be held to be a felony under this section without regard to its designation in such other state, territory or country].

(e) Become addicted to a *controlled substance* [drug habit].

(f) Become a chronic or persistent alcoholic.

(g) Developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public. [In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to such examination when directed shall constitute an admission of the allegations against him (unless the failure was due to circumstances beyond his control) consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician whose license has been suspended, limited, restricted or revoked under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients].

(h) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(i) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(j) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed; or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(k) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board.

(l) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board.

(m) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, *or impersonates another practitioner of a like, similar or different name.*

(n) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(o) Willfully violated a confidential communication.

(p) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

(q) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the Trustees of the rural Kentucky medical scholarship fund.

(r) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, provided the patient has full knowledge of this division and provided the division is made in proportion to the services performed and responsibility assumed by each.

(s) Been removed, suspended or expelled by any professional medical association or society when such action was based upon what said association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311.

(t) Been disciplined by a licensed hospital or medical staff of said hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, or other disciplinary action if such action was based upon what said hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311.

[(2) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise such a person of the nature, time and place thereof. Proceedings and forms shall be in accordance with rules and regulations of the board, and hearings may be conducted by hearing officers of the board as provided in subsection (2)(b) of KRS 311.565, but no hearing shall be conducted until at least thirty days' written notice thereof has been given to the holder of the license, who shall have the right to be present, in person or by counsel, and to present evidence and to be heard in opposition to the charges which may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceedings before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in this subsection, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty days after notice is given to the licensee, unless said licensee, within thirty days from the giving of such notice, appeals therefrom in the manner provided by subsection (4) of this section. Provided, however, that the board may, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and

safety of the licensee's patients or the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of same, engage or continue to engage in any prohibited practice under the license unless and until the order is reversed or modified by a final and unappealable order or judgment of a court made pursuant to the provisions of subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting or revoking his license may procure a declaration of rights under the Declaratory Judgment Act by filing, within thirty days after notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficent sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served upon the secretary for and on behalf of the board, and the secretary shall, within thirty days after such service and the filing of said bond, file with the court a transcript of the record of hearing together with a certified copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act.

(5) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, which is given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address as it appears in the files of the board shall be sufficient.

(6) All members of the board, and its secretary and hearing officer, have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension or revocation.

(7) The board may compel the attendance of witnesses at hearings in connection with disciplinary proceedings, and circuit and county courts are, upon petition of the board or its hearing officer, authorized and empowered to punish as contempt all failures to obey subpoenas and other process provided in subsection (6) of this section and all contemptuous or contumacious conduct directed to the board or its hearing officer in the course of disciplinary proceedings.]

SECTION 5. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) In every proceeding for probation, suspension, limitation, restriction or revocation of a license, the secretary shall furnish the licensee with written notice setting out the substance of each offense charged, with sufficient detail to reasonably apprise the licensee of the nature, time and place thereof. Proceedings and forms shall be in accordance with the rules and regulations of the board, and hearings may be conducted by hearing officers of the board as provided in subsection (2)(b) of KRS 311.565, but no hearing shall be conducted until at least thirty (30) days' written notice thereof has been given to the holder of the license, unless said period be waived by the licensee, and who shall have the right to be present, in person and/or by counsel, and to present evidence and to be heard in opposition to the charges.

(2) Charges may be instituted by any individual, or organization, or by the board acting upon its own initiative or by the secretary on behalf of the board. Preliminary to the institution of any such proceeding, the secretary may refer the charge or charges to the state organization which represents the profession to which the holder of the license belongs, for investigation and recommendations as to the adjustment, settlement or disciplinary action, and such professional organization may assist in the prosecution or defense of any such proceeding before the board, which shall not be bound to follow its recommendations.

(3) Except as otherwise provided in Section 7 of this Act, every order of the board suspending, limiting, restricting or revoking a license shall become effective thirty (30) days after notice is given to the licensee, unless said licensee, within thirty (30) days from the giving of such notice, appeals therefrom in the manner provided by subsection (4) of this section.

(4) Any licensee who is aggrieved by an order of the board placing the licensee on probation, or suspending, limiting, restricting, or revoking his license may procure a declaration of rights under the Declaratory Judgment Act by filing, within thirty (30) days after the notice of said order, a complaint against the board in the circuit court of the county in which the board's offices are located, together with a bond with good and sufficient sureties thereon to cover all costs, which complaint shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order. Summons and a copy of the complaint may be served on the secretary for and on behalf of the board, and the secretary shall, within thirty (30) days after such service and the filing of said bond, file with the court a transcript of the record of the hearing together with a certified

copy of the order complained of. The board may file an answer, or such other pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new or additional evidence shall be introduced in the circuit court.

(5) In the event the action of the board is not sustained, the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree of the circuit court may appeal therefrom to the Court of Appeals of Kentucky in the time, method and manner provided in the Declaratory Judgment Act.

(6) Any notice, that is required to be given to a licensee by the board, or by its secretary or hearing officer, shall be given by forwarding same by registered United States mail, postage prepaid, to the licensee at his last known address, or licensee's attorney of record, as said respective addresses may appear in the files of the board.

(7) All members of the board, and its secretary and hearing officer, have authority to administer oaths, and to issue, in the name of the board, complaints, notices, summonses, subpoenas, and other process, in connection with any charge, proceeding or hearing relating to probation, suspension, revocation or other disciplinary action.

(8) The board may compel the attendance of witnesses at hearings in connection with disciplinary proceedings, and circuit and district courts are, upon petition of the board or its hearing officer, authorized and empowered to punish as contempt all failure to obey subpoenas and other process provided in subsection (7) of this section and all contemptuous or contumacious conduct directed to the board or its hearing officer in the course of disciplinary proceedings.

SECTION 6. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

As used in KRS 311.595(1)(h) "dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" shall include, but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any "controlled substance" as defined in KRS 218A.010(2):

(a) With the intent or knowledge that a controlled substance will be used or is likely to be used other than medicinally or for an accepted therapeutic purpose,

(b) With the intent to evade any law with respect to sale, use or disposition of such controlled substance(s),

(c) For the licensee's personal use or for the use of his immediate family when the licensee knows or has reason to know that an abuse of controlled substance(s) is occurring, or may result from such a practice, or

(d) In such amounts that the licensee knows or has reason to know, under the attendant circumstances, that said amounts so prescribed or dispensed are excessive under accepted and prevailing medical practice standards.

(2) Issues or publishes in any manner whatsoever, representations in which grossly improbable or extravagant statements are made which have a tendency to deceive or defraud the public, or a member thereof, including, but not limited to:

(a) Any representation in which the licensee claims that he can cure or treat manifestly incurable diseases, ailments or infirmities by any method, procedure, treatment or medicine which the licensee knows or has reason to know has little or no therapeutic value;

(b) Represents or professes or holds himself out as being able and willing to treat diseases, ailments or infirmities under a system or school of practice:

1. Other than that for which he holds a certificate or license granted by the board, or

2. Other than that for which he holds a degree or diploma from a school otherwise recognized as accredited by the board, or

3. Under a school or system which he professes to be self-taught.

(3) A serious act, or a pattern of acts committed during the course of his medical practice which, under the attendant circumstances, would be deemed to be gross incompetence, gross ignorance, gross negligence or malpractice.

(4) Conduct which is calculated or has the effect of bringing the medical profession into disrepute, including, but not limited to any departure from, or failure to conform to the standards of acceptable and prevailing medical practice within the Commonwealth of Kentucky, and any departure from, or failure to conform to the principles of medical ethics of the American medical association or the code of ethics of the American osteopathic association. For the purposes of this subsection, actual injury to a patient need not be established.

(5) Failure by a licensee to report a known or observed violation of KRS Chapter 311 by another licensee as described in Section 10 of this Act.

SECTION 7. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) The board may order a temporary suspension, limitation or restriction upon a licensee when in the board's opinion, based upon sufficient reasonable cause, the continued practice by the licensee would constitute a danger to the health, welfare and safety of the licensee's patients or to the general public; the board may issue such a temporary order simultaneously with a complaint against the licensee, or at any time after the filing of the complaint against the licensee until such time as the complaint is heard.

(2) Any such temporary order suspending, limiting or restricting a license shall be effective when issued, and the licensee shall not, after notice of the order, engage in or continue to engage in any prohibited practice under that license unless and until the order is reversed, modified, or withdrawn.

(3) In the event that the board should issue a temporary order suspending, limiting or restricting a license simultaneously with a complaint against the licensee or before a hearing is held upon the complaint, the board shall, upon written request by the licensee, hold the hearing on the complaint within ten (10) days of such written request. Further, within five (5) days of said hearing, the board or the hearing officer on behalf of the board, shall issue an order to the licensee sustaining, modifying or withdrawing the temporary order during the pendency of the proceedings.

(4) The board may, after the hearing on the complaint, when in its opinion the continued practice by the licensee during the time allowed for appeal would be dangerous to the health, welfare and safety of the licensee's patients or to the general public, provide in its order of suspension, limitation, restriction or revocation that said order shall become effective forthwith and the licensee shall not, after notice of said order, engage or continue to engage in any prohibited practice under that license unless and until the order is reversed, modified, or withdrawn.

(5) Any licensee who is aggrieved by an order of the board placing the licensee under suspension, limitation or restriction during the pendency of the action concerning his license, may, after the hearing of the complaint as described in subsection (3) or subsection (4) above of this section, petition the circuit court of the county in which the board's offices are located for the appropriate relief reversing or modifying the board's order; the petition shall request judicial review of the order and the proceedings held by the board, or its hearing officer, and set out with particularity the grounds relied upon for reversal or modification of the order, the licensee shall simultaneously file a bond together with good and sufficient sureties thereon to cover all costs. Summons and a copy of the petition may be served upon the board secretary for and on behalf of the board, and the secretary shall within ten (10) days after such service and the filing of said bond, file with the court a transcript of the record of the hearing together with a copy of the order in controversy. The board may file an answer, or other such pleadings as it considers appropriate, and the court shall, after considering the transcript of the record and the board's order and any arguments of counsel, enter judgment. No new additional evidence shall be introduced in the circuit court. In the event the action of the board is not sustained the court shall, upon request of the board, remand the case to the board for further proceedings. Any party aggrieved by the final judgment, order or decree rendered in the case may appeal therefrom to the Court of Appeals of Kentucky in the time, manner and method as provided in the Rules of Civil Procedure.

SECTION 8. A NEW SECTION OF KRS 311.595 TO 311.601 IS CREATED TO READ AS FOLLOWS:

(1) To assist the board in enforcing the provisions of KRS 311.595(1)(g), the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by physicians designated by it. The board may issue such an order to a licensee in conjunction with a complaint against the licensee or at anytime during the proceedings, when in the board's opinion such action is deemed necessary in order to ascertain the licensee's ability to practice competently.

(2) Failure of a physician to submit to such an examination when directed, unless the failure was due to circumstances beyond his control, shall constitute an admission that the concerned physician has developed such a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public; said failure shall constitute a default and a final order may be entered without the taking of testimony or presentation of evidence.

(3) A physician whose license has been suspended, limited, restricted or revoked under this section and KRS 311.595(1)(g), shall at reasonable intervals be afforded an opportunity to demonstrate that he can resume the competent practice of medicine with reasonable skill and safety to patients.

SECTION 9. A NEW SECTION OF KRS 311.601 TO 311.603 IS CREATED TO READ AS FOLLOWS:

(1) In order to assist a licensee in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595, the licensee may request an opinion of the board by written request submitted to the secretary; the board shall cause a written response to be made to each requesting licensee.

(2) In formulating a response to a request, the board may request an opinion from any concerned medical or osteopathic professional association or society; however, the board shall not be bound by such a supplemental opinion.

(3) The board shall keep a permanent record of all such requests made and the response thereto; further, the board may publish its opinions.

SECTION 10. A NEW SECTION OF KRS 311.605 TO 311.610 IS CREATED TO READ AS FOLLOWS:

(1) In order to assist the board in the enforcement of KRS 311.595(1)(s) and (t), any professional medical association or society operating in the Commonwealth of Kentucky, or any hospital or medical staff of said hospital located in the Commonwealth of Kentucky, shall report all actions taken against a licensed physician as described in KRS 311.595(1)(s) and KRS 311.595(1)(t) to the board within thirty (30) days of the final adjudication of said action together with all pertinent documents to include but not limited to transcripts, pleadings and certified copy of the final order.

(2) In order to assist the board in the enforcement of the provisions of KRS Chapter 311, any licensed physician who observes another licensed physician violating a provision of KRS Chapter 311 shall submit a written report to the board, or to the board and the concerned medical association or society, or to the board and the concerned hospital or medical staff of the hospital within ten (10) days of observing such a violation or obtaining other direct knowledge of such a violation; the report shall contain the name of the licensed physician believed to be in violation of a provision of KRS Chapter 311, a detailed account of the concerned actions, a list of all other witnesses to said actions, and the name of the physician submitting the report.

(3) All clerks of the circuit and district courts in the Commonwealth of Kentucky shall report to the secretary of the board all criminal convictions of licensees that may occur in their respective courts. The report shall contain the name of the licensee, the sentence imposed against the licensee, and whether the sentence imposed upon the licensee has been appealed.

SECTION 11. A NEW SECTION OF KRS 311.605 TO 311.610 IS CREATED TO READ AS FOLLOWS:

(1) Except for disciplinary actions taken pursuant to KRS 311.595(1)(g) and Section 8 of this Act, a licensee who has had his license revoked may, after two (2) years from the effective date of the revocation order, petition the board for a license to again practice in the Commonwealth of Kentucky.

(2) The board shall not be required to issue a new license as described in subsection (1). No new license shall be issued to such former licensee unless the applicant satisfies the board that he is presently of good moral character and qualified both physically and mentally to resume the practice of medicine without undue risk or danger of his patients or the public.

(3) In the event that the board should issue a new license under the circumstances as described in this section, the new license shall be under probation for a period of not less than two (2) years nor more than five (5) years, and any subsequent violation during the probation period shall result in automatic revocation of license.

Section 12. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50.00) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred and fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred and fifty ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board or the department for human resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50.00) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) Conviction of wilfully resisting, preventing, impeding, obstructing, threatening or interfering with the board or any of its members, or of any officer, agent, inspector or investigator of the board in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(11) Any physician who fails to comply with the provisions of KRS 311.730, upon conviction thereof shall be fined not more than five hundred dollars ($500).

(12) Failure to procure the informed consent of those required to give their consent pursuant to KRS 311.740, prior to performing an abortion shall be punishable by imprisonment in the county jail not to exceed one (1) year or a fine not to exceed one thousand dollars ($1,000), or both.

(13) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(14) Any person who violates KRS 311.760(2), 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(15) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(16) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or a fine in a sum not to exceed one thousand dollars ($1,000), or both.

(17) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of Section 10 of this Act, shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500) for each failure to so report as described in Section 10 of this Act.

The Committee on Banking and Insurance reported **SB 92,** with Committee Amendments attached thereto, and **SB 232** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 92, AN ACT relating to the Licensing of Insurance Agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 304, SUBTITLE 9 IS CREATED TO READ AS FOLLOWS:

For the protection of the people of this state, the commissioner shall not issue, continue or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless such person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle:

(1) That the person has attained the age of eighteen years or more.

(2) That the person has fulfilled the residence requirements as set forth in KRS 304.9-120.

(3) That the person is trustworthy, reliable and of good reputation, evidence of which may be submitted on behalf of the person in the form of:

(a) a certificate by the insurer or agent by which or whom the person is to be appointed or employed, subject to the issuance of the license, stating that such insurer or agent has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability and good reputation of the person together with a brief synopsis of the findings resulting therefrom, or

(b) three letters of recommendation attesting to the trustworthiness, reliability and good reputation of the person written on his behalf by persons not related to him by blood or marriage and one of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(4) That the person is competent to exercise the license and has:

(a) successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state; and

(b) successfully completed such specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for such license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for such purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision such instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when such programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if such programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner; and

(c) successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170.

(d) The requirements contained in this subsection shall not be applicable to the continuance of any license issued prior to the effective date of this Act.

(5) That the person is financially responsible to exercise the license and has:

(a) filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that such insurer has and will keep in effect on behalf of such person a policy of insurance covering the legal liability of such licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single such occurrence in the sum of not less than $10,000.00 and $50,000.00 in the aggregate for all such occurrences within one year, and that such policy shall not be terminated unless at least 30 days prior written notice will have been given to the commissioner; or

(b) deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write such business in this Commonwealth, in the sum of $10,000.00 which shall be subject to lawful levy of execution by any party to whom the licensed person has been found to be legally liable as the result of erroneous acts or failure to act in his capacity as an insurance agent; or

(c) had filed with the commissioner on his behalf, by an authorized insurer or group of affiliated insurers for which he is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of such licensed person as the result of erroneous acts or failure to act in his capacity as an insurance agent on behalf of such insurer or group of affiliated insurers in the sum of $10,000.00 for any such single occurrence and that such agreement shall not be terminated until the license is surrendered to the commissioner or at least 30 days prior written notice will have been given to the commissioner, whichever shall first occur; and

(d) agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed pursuant to (a) hereof, or agreement filed pursuant to (c) hereof, is to be terminated and has not been replaced by another such policy or agreement within 10 days of the date on which such notice of intent to terminate was given to the commissioner, or if any deposit pursuant to subsection (b) hereof be reduced through levy of execution and not replaced by any necessary additional deposit within 10 days thereafter, any and all licenses held by such person are suspended and shall be promptly surrendered to the commissioner without demand.

(6) That the person, to whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.

(8) Subsections 4(b), 5 and 8 shall not apply to any person holding a limited license pursuant to KRS 304.9-230.

Section 2. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue to an applicant qualified therefor under this code a limited agent's license as follows:

(a) Covering motor vehicle insurance only, if the licensee is not concurrently licensed as agent, or solicitor as to any other kind of insurance or class of insurance business.

(b) To persons representing common carriers, as provided in KRS 304.9-170.

(c) Covering only insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured.

(d) Covering only credit life and credit health insurance.

(e) Covering agents writing mortgage guaranty insurance only.

(f) Covering agents (1) writing industrial life insurance only or (2) licensed by an insurer issuing policies on the debit plan, if such agent actually collects and services a debit for such insurer.

(2) The fee for licenses is as specified in KRS 304.4-010.

Section 3. KRS 304.9-300 is amended to read as follows:

(1) The commissioner may issue a temporary license as agent to or with respect to an individual *who demonstrates that he is* qualified therefor only as to age, residence, [and] trustworthiness, [and] *general education and financial responsibility* without requiring such individual to *successfully complete specific courses of instruction or* take an examination, in the following cases:

(a) To the surviving spouse or next of kin or to the administrator or executor, or the employe of such administrator or executor, of a licensed agent becoming deceased.

(b) To the spouse, next of kin, employe or legal guardian of a licensed agent disabled by sickness, injury, or insanity.

(c) To a member or employe of a firm, or officer or employe of a corporation, licensed as agent, upon the death or disability of an individual designated in or registered under the license to exercise the powers thereof.

(d) To the designee of a licensed agent entering upon active service in the armed forces of the United States.

(e) To any agent appointed by an insurer issuing policies on the debit plan, if such agent actually collects and services a debit. The insurer and agent may assume that such license will be issued, effective as of the date of application, and the agent may continue on such debit until notified to the contrary by the commissioner.

(f) To a full time *ordinary* life insurance agent appointed by the insurer under a training program filed with and approved by the commissioner, *which program shall not be approved unless it includes the equivalent of 40 hours of classroom instruction in specific courses in the field of insurance as prescribed by the commissioner for the issuance of a permanent license. No such training program or temporary licensing privilege shall be granted or continued for such ordinary life agents for any insurer obtaining more than ten such temporary licenses within any calendar year and which fails to qualify at least sixty-five percent of its temporary licensees for a permanent license.*

(g) In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of such license.

(2) Application for a temporary license shall be filed with the commissioner in such form and containing such information as the commissioner may reasonably require, and be accompanied by the application fee as specified in KRS 304.4-010.

(3) The temporary license shall be for a period of not over ninety (90) days, subject to extension by the commissioner in his discretion for one (1) additional period of not over ninety (90) days; except, that license issued as to an executor or administrator under paragraph (a) of subsection (1) of this section may be continued without payment of additional fee until the executor or administrator has disposed of the insurance business, but for not to exceed a period of eighteen (18) months. Temporary license issued to the spouse or next of kin under such paragraph (a) of subsection (1) of this section shall not be extended for an additional term after appointment and qualification of such an administrator or executor.

(4) The fee paid for the temporary license may be applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.

Section 4. KRS 304.9-260 is amended to read as follows:

(1) Each solicitor, consultant, adjuster, and surplus lines broker license issued under this code shall continue in force until expired, suspended, revoked or otherwise terminated, but subject to payment to the commissioner at his office in Frankfort annually on or before March 31 of the applicable continuation fee as stated in KRS 304.4-010; accompanied by written request for such continuation. Request for continuation shall be made as follows:

(a) As to adjuster, and surplus lines broker licenses, request made and signed by the licensee.

(b) As to solicitor licenses, request made and signed by the employer as to whom licensed.

(c) As to limited licenses issued under KRS 304.9-230, request made and signed by the insurer so represented.

(2) Any license referred to in subsection (1) of this section as to which request for continuation and fee are not so received by the commissioner shall be deemed to have expired at midnight on such March 31; except that any such request received by the commissioner after such March 31 and prior to the next following May 1 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by an annual continuation fee equal to one and one-half times the continuation fee otherwise required.

(3) The license of an agent shall continue in force as long as there is in effect as to such licensee, as shown by the commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all of the kinds of insurance or classifications thereof included in the agent's license. Upon termination of all of the licensee's agency appointments as to a particular kind of insurance or classification thereof and failure to replace such appointment within sixty (60) days thereafter, the license shall thereupon expire and terminate as to such kind or classification of insurance and the licensee shall promptly deliver his license to the commissioner for re-issuance, without fee or charge, as to the kinds of insurance or classifications thereof, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's agency appointments the license shall forthwith terminate.

(4) As a condition to or in connection with the continuation of any agent, consultant, or solicitor license the commissioner may require the licensee to file with him information relative to use made of the license during the next preceding calendar year, and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

(5) As a condition to or in connection with the continuation of any agent or solicitor license the commissioner shall require continuous demonstration of financial responsibility as required by Section 1, subsection 5 of this Act and any such license shall terminate and be surrendered to the commissioner, as provided for therein, if and when such demonstration becomes impaired whether or not valid appointments under the license are then existent.

(6) [(5)] *Except as to the provisions of subsection (5) hereof,* this section does not apply to temporary licenses issued under KRS 304.9-300.

Section 5. KRS 304.6-040 is amended to read as follows:

In any determination of the financial condition of an insurer, capital stock and liabilities to be charged against its assets shall include:

(1) The amount of its capital stock outstanding, if any, less the amount of shares held by the insurer as treasury stock as provided in subsection (3) of KRS 304.6-020.

(2) The amount, estimated consistent with the provisions of subtitle 6, necessary to pay all of its unpaid losses and claims incurred on or prior to the date of statement, whether reported or unreported, together with the expenses of adjustment or settlement thereof.

(3) With reference to life insurance policies and annuity contracts, and disability and accidental death benefits in or supplemental thereto:

(a) The amount of reserves on life insurance policies and annuity contracts in force, valued according to the tables of mortality, rates of interest, and methods adopted pursuant to KRS 304.6-130 to 304.6-180, inclusive.

(b) Reserves for disability benefits, for both active and disabled lives required by paragraph (e) of subsection (2) of KRS 304.6-140.

(c) Reserves for accidental death benefits, required by paragraph (f) of subsection (2) of KRS 304.6-140.

(d) Any additional reserves which may be required by the commissioner consistent with applicable customary and general practice in insurance accounting as set forth in regulations promulgated by the commissioner *but no such additional reserve shall be required of any company solely for contingent liabilities which may arise under any agreement, filed with and approved by the commissioner, for the assumption of liability by the company growing out of the acts of its exclusive agents within the course and scope of their representation.*

(4) Reserves for health insurance required by KRS 304.6-070.

(5) With reference to insurance other than specified in subsections (3) and (4) of this section, and other than title insurance, the amount of the policy reserves computed in accordance with subtitle 6.

(6) Taxes, expenses and other obligations due or accrued at the date of the statement.

Section 6. KRS 304.4-010 is amended to read as follows:

The commissioner shall collect in advance, and persons so served shall pay in advance to the commissioner, fees, licenses and miscellaneous charges as follows:

(1) Annual statement of insurer:

(a) Filing each year	$ 50.00
(b) Filing additional or supplemental statement in same year	50.00

(2) For filing charter documents:

(a) Original charter document, bylaws and records of organization of insurer, or certified copies thereof, required to be filed	50.00
(b) Amended charter documents, or certified copy thereof	10.00
(3) Certificate of authority:	
(a) Issuance of original certificate	200.00
(b) Amending, to add a line	10.00
(c) Renewal, each year	100.00
(4) Organization of domestic mutual insurers:	
Filing application for solicitation permit and issuance of such permit	100.00
(5) Agent's licenses, foreign and alien insurers:	
(a) License for life insurer, whether or not health insurance is included, each year	5.00
(b) License for industrial life insurer, only, each year	5.00
(c) License for other insurance, each insurer represented, each year	5.00
(d) Limited license as travel insurance agent, each year	5.00
(e) Temporary license as property and casualty agent	5.00
(f) Temporary license as life and health agent	5.00
(g) Nonresident agent, each year	10.00
(6) Surplus lines broker, each year	50.00
(7) Solicitor's license, each year	15.00
(8) Adjuster's license, each year	25.00
(9) Consultant's license, each year	25.00
(10) Examination, for or in connection with licensing of agents, solicitors and adjusters:	
(a) Each examination first line	10.00
(b) Each additional line	5.00
(c) Re-examination of each line	5.00
(11) Miscellaneous services:	
(a) Filing other documents, each	2.00
(b) Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each	2.00
(c) For copies of any document on file with the commissioner, per page	.25
(d) Copy of annual statements, per page	1.00
(e) Service of process on commissioner	5.00
(f) Copy of agent's study manual	*$10.00* [5.00]
(g) Copy of Kentucky insurance laws	5.00

Section 7. KRS 304.9-110 is repealed.

The Committee Amendment No. 1 to **SB 92** is as follows:

Amend printed copy of **SB 92,** page 5, line 26, by adding after line 26, the following paragraph:

"(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C.A., Section 2002 (Pub. Law 92-181, Sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this State, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except Credit Life and Accident and Health in an amount appropriate to insure repayment of the loan."

The Committee Amendment No. 2 to **SB 92** is as follows:

Amend printed copy of **SB 92,** page 5, line 24, by deleting ",5 and 8" and inserting in lieu thereof "and 5";

and on page 6, line 21, after "," insert "in amounts not to exceed ten thousand dollars ($10,000),"

SB 232, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.655 is amended to read as follows:

(1) Before any certificate or permit will be issued or renewed, the applicant or holder of the certificate or permit must file or have on file with the department an approved indemnifying bond or insurance policy issued by some surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. The bond or policy shall have attached thereto the state insurance indorsement. All bonds or policies required herein must be issued in the name of the holder of the certificate or permit. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(2) The bond or policy required of a U-Drive-It or automobile utility trailer lessor shall provide public liability and property damage coverage when operated either by the lessee or lessor thereof or agents, servants or employes of either.

(3) All bonds or policies shall provide blanket coverage for all equipment operated pursuant to the certificate or permit.

(4) Effective January 1, 1957, the types and minimum amounts of insurance to be carried on each vehicle are as follows:

MOTOR VEHICLES FOR THE TRANSPORTATION OF PERSONS, INCLUDING U-DRIVE-ITS

Capacity	Death or Injury to Any One Person	Total Liability for Death or Injury to Persons	Property Damage
7 persons or less	$10,000.00	$20,000.00	$5,000.00
8 to 16 inclusive	10,000.00	30,000.00	5,000.00
17 to 25 inclusive	10,000.00	40,000.00	5,000.00
26 or more	10,000.00	50,000.00	5,000.00

MOTOR VEHICLES FOR THE TRANSPORTATION OF PROPERTY, INCLUDING U-DRIVE-ITS AND AUTOMOBILE UTILITY TRAILERS

Gross Weight	Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
18,000 lbs. or less	$10,000.00	$20,000.00	$5,000.00
More than 18,000 lbs.	100,000.00	300,000.00	50,000.00
	10,000.00	30,000.00	5,000.00

(5) Any carrier or motor carrier using any vehicle for the transportation of inflammables, explosives or petroleum or petroleum products in bulk shall have the following types and minimum amount of insurance carried on each such vehicle:

Death of or Injury to Any One Person	Total Liability for Death of or Injury to Persons	Property Damage
$100,000.00	$300,000.00	$50,000.00
$10,000.00	$30,000.00	$25,000.00

(6) Before any Kentucky intrastate certificate, exclusively authorizing the transportation of property, except an irregular route common carrier certificate exclusively authorizing the transportation of Kentucky exempted commodities, shall be issued or renewed, the applicant or holder of the certificate must file or have on file with the department an approved insurance policy or bond compensating shippers or consignees for loss or damage to property belonging to shippers or consignees and coming into possession of the carrier in connection with its transportation service, (a) for loss of or damage to property carried on any one motor vehicle in the amount of five thousand dollars ($5,000); (b) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place in the amount of ten thousand dollars ($10,000). Said policy or bond shall have attached thereto the Kentucky cargo policy indorsement and must be

issued by some insurance or surety company authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until canceled under proper notice. In lieu of the bond or policy, the department, under appropriate rules and regulations, may require the filing of an approved certificate of insurance, the term of which shall be continuous and shall remain in force and effect until canceled under proper notice.

(7) The department may by regulation require motor carriers for hire operating exclusively interstate commerce to file proof of cargo insurance coverage in such form and in such amounts as the commissioner deems advisable.

(8) No insurance company or insurance carrier issuing any policy filed with the department, and no surety or obligor on any bond or contract filed with the department, shall be relieved from liability under the policy, bond or contract until after the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract, provided, however, that a prior cancellation may be allowed in cases where one policy, bond or contract is substituted for another policy, bond or contract where such substituted policy, bond or contract is of force and effect at a point in time prior to the expiration of fifteen (15) days' notice to the department of an intention to cancel the policy, bond or contract for which such additional policy, bond or contract is being substituted. The acceptance of any notice of an intention to cancel any policy, bond or contract or the cancellation of any policy, bond or contract by the department, unless under the circumstances hereinbefore set forth, shall not relieve the insurance company, insurance carrier, surety or obligor of any liability that accrued prior to the effective date of the cancellation.

(9) Upon the cancellation of any bond or insurance policy required by this section, all operating rights granted by the certificate or permit for which said bond or policy was filed, shall immediately cease, and the department is empowered to immediately require the cessation of all operations conducted under authority of said certificate or permit, and to require the surrender of all certificates, permits, licenses and other evidence of a right to act as a motor carrier.

(10) The department may exempt in whole or in part from the requirements of this section any person who applies for such exemption and shows to the satisfaction of the department that, by reason of the financial ability of the person applying, there is due assurance of the payment of all damages for which he may become liable as a result of the operation of any vehicle owned by him or operated under authority of his certificate or permit.

The Committee on Judiciary-Courts reported **HB 526, HB 617,** and **HJR 86** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 526, AN ACT relating to county law libraries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 172.200 is amended to read as follows:

(1) Upon the adoption of this optional plan, *in counties other than those containing a city of the first class,* the circuit judge shall appoint one (1) member of the county's bar, and the members of the county's bar shall, by majority vote, elect another of their number, which two (2) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library." *In counties containing a city of the first class, the chief circuit judge shall appoint one (1) member of the county's bar; the members of the county's bar shall, by majority vote, elect another of their number; the fiscal court shall appoint one (1) member and one (1) member shall be appointed by the commonwealth's attorney, which four (4) attorneys shall, with the county attorney of the county, constitute and be designated as "Trustees, ... County Law Library."*

(2) The trustees shall serve for a term of two (2) years or until their successors are elected or qualified.

(3) The trustees shall be in charge of the county law library, and they shall make purchases of the various state and federal case reports, textbooks, legal encyclopedia, and all other books usually incident to or customarily found in law libraries, or necessary to the protection of the rights of litigants, and they shall cause same to be properly arranged in the county law library, directing the ex officio librarian in the exercise of his duties.

(4) The trustees shall exercise their absolute discretion in the purchase of books, pamphlets, periodicals, and other materials, and in the appointment and compensation of personnel to assist the ex officio librarian in the handling of materials and in the maintenance of the library, but the trustees shall not contract for any such purchases and appointments so as to create an indebtedness greater than the anticipated revenue for the following eighteen (18) months, the anticipated revenue being based upon the preceding eighteen (18) months' revenue, and any indebtedness of the county law library fund shall not be considered in any way an

indebtedness of the county, but shall be an indebtedness of the county law library fund only, and all creditors must look only to the county law library fund for satisfaction of their indebtedness.

(5) The trustees shall designate one (1) of their number as treasurer and he shall be accountable for the receipt, deposit, and disbursement of all sums received for the operation of the county law library. He shall be bonded by a corporate bond, the cost of which shall be paid out of the receipts of the library fund. He shall deposit all sums received by him as treasurer in a regular banking depository, and he shall pay for all purchases made by the trustees by check or draft, keeping a true and accurate account of all sums received and expended by him. He shall annually file a written report with the circuit judge of the county showing all sums received by him, together with the court from which they were received, and an itemized statement of all expenditures made by him. The treasurer shall turn all funds over to his successor, together with a full inventory of the county law library, and together with a full and complete itemized statement of all outstanding accounts.

HB 617, AN ACT relating to circuit clerks and their deputies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

All circuit clerks and deputy clerks may receive annual salary increments for each year's services, subject to determination by the Supreme Court.

HJR 86, A JOINT RESOLUTION directing the establishment of a task force to study the Commonwealth's legal system and making an appropriation therefor.

WHEREAS, the passage and implementation of the Judicial Article was a novel and massive step in revamping the legal system of this Commonwealth; and

WHEREAS, the General Assembly, Court, Bar and Citizenry all well recognized that implementation of the Judicial Article required legislative decisions in many areas where there was little data or experience to provide guidance; and

WHEREAS, there are many thoughtful and provocative questions now raised as to the future of and change within our present legal system;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby established a special task force to study the Commonwealth's legal system which shall be composed as follows:

a. Five members of the Kentucky General Assembly to be selected by the Legislative Research Commission, at least two of whom shall be selected from each house, and one of whom shall be designated as chairman of the task force;

b. Five justices or judges to be selected by the chief justice of the Kentucky Supreme Court, at least one of whom shall represent each of the four tiers of the judicial system;

c. Five attorneys to be designated by the Attorney General, two of whom shall be commonwealth's attorneys, two county attorneys, and the Attorney General or his designee;

d. Ten persons selected by the Governor, two of whom shall be circuit clerks, two jailers, two representatives of the executive branch, and four citizens at large.

Section 2. The task force shall thoroughly evaluate and answer the following questions:

a. Should the number of district and circuit judges be reduced, increased or rearranged so as to better reflect case and work loads?

b. Would the Commonwealth receive more efficient, cost effective prosecutorial services by shifting duties or providing for full-time attorneys?

c. Is the local incarceration system adequate or should a regional jail system be developed?

d. Are staff needs of the circuit court clerks adequately met, or should additional staff be provided to meet the demands of the new court system?

e. Is the present system for disposing of offenses committed by juveniles adequate to provide for the protection of the public and at the same time the rehabilitation of the juvenile offender?

Section 3. The General Assembly directs that the task force study the aforementioned issues, and prepare a comprehensive report, which includes extensive relevant data on costs, workload and productivity, and recommends a specific course of action in regard to each of the stated propositions, to be submitted to the Legislative Research Commission, the Chief Justice of the Supreme Court of Kentucky and the Governor by December 15, 1979.

Section 4. Staff for the task force shall be furnished by the Legislative Research Commission.

Section 5. There is hereby appropriated to the Legislative Research Commission to carry out the work of the task force the sum of one hundred thousand dollars ($100,000) for the fiscal year 1978-1979, which sum shall not lapse but shall be carried forward.

The Committee Amendment to **HJR 86** is as follows:

Amend printed copy of **HJR 86**, page 3, line 12, after "by" delete "December 15" and insert in lieu thereof "July 1"

The Speaker vacated the Chair.

Representative Fitzgerald presiding.

Calendar

HB 8, **HB 384**, **HB 613**, **SB 149**, **SB 158**, **SB 185**, **HJR 78**, **HJR 91**, **HB 546**, HB 495, **HB 665**, **HB 693**, **HB 710**, **SB 249**, **HB 420**, **HB 684**, HB 752, HCR 73, **SB 98**, **SB 245**, **HB 545**, **HB 566**, **HB 569**, **HB 622**, **HCR 45**, **HCR 54**, **HCR 71**, **HCR 84**, **HCR 87**, **HCR 88**, **HB 501**, **HB 683**, **HB 714**, **SB 115**, **SB 131**, **HB 634** taken from the Calendar and ordered read at length for the second time. Representative B. Richardson moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

The Speaker resumed the Chair.

Representative Boswell moved that the rules be suspended for the purpose of making a motion concerning co-sponsors of Bills and Resolutions. Agreed.

Representative Boswell moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative Brown, **HB 163**; Representative Craddock, **HB 623**; Representative Cyrus, **HB 163**; Representative Donnermeyer, **HB 551**; Representative Holbrook, **HB 163**; Representative Romines, **HB 732**; Representative Van Horn, **HB 538**.

Representative B. Richardson moved that the rules be suspended for the purpose of introduction and action of **HR 109**. Agreed.

HR 109, by Representatives Kenton and B. Richardson: A RESOLUTION honoring Vic Hellard, Jr. for his outstanding service to the legislature as Director of the Legislative Research Commission.

HR 109, A RESOLUTION honoring Vic Hellard, Jr. for his outstanding service to the legislature as Director of the Legislative Research Commission.

WHEREAS, one year ago the Legislative Research Commission named Vic Hellard, Jr. the Director of the Legislative Research Commission; and

WHEREAS, through the leadership of Mr. Hellard, the staff of the Legislative Research Commission has performed outstanding service to the General Assembly in the interim activity, pre-session planning and in-session operation; and

WHEREAS, Vic Hellard, Jr. commands the respect and admiration of the Legislative Research Commission, its staff and the individual members of the General Assembly due to his leadership ability, concern for individuals, affability, and his command for excellence of job performance; and

WHEREAS, Vic Hellard's low-key, reasoned approach to performing his tasks as Director of the Legislative Research Commission has precluded the development of many problems and has quietly and efficiently solved many existing problems;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Vic Hellard, Jr. is hereby recognized and applauded for his service as Director of the Legislative Research Commission.

Section 2. That when the House of Representatives adjourns on Friday, March 3, 1978 it do so in honor of Vic Hellard, Jr.

Section 3. That the Clerk of the House of Representatives shall deliver a copy of this resolution to Vic Hellard, Jr.

Representative B. Richardson moved the adoption of **HR 109.**

HR 109 was adopted by voice vote.

The Clerk announced the filing of the Discharge Petition in regard to **HB 254.**

The Clerk announced the filing of a petition to remove the following Bills from Consent Orders of the Day: **HB 588, HB 589, HB 590, HB 591, HB 593, HB 594, HB 595, HB 596, HB 597,** and **HB 598.**

Recess

Representative B. Richardson moved that the House recess until 11:45 a.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative B. Richardson moved that the House recess until 1:00 p.m.

ON the roll call the vote was yeas 9-Foster, Head, Holbrook, Siemens, R. Smith, Stone, Thomas, Wells, Wilborn. Nays 31-Blandford, Boswell, Burnette, Craddock, Crupper, Cyrus, Davenport, Dawahare, Dietz, Donnermeyer, Dunn, Gay, Gray, Hancock, Johnson, LeMaster, Lindsay, List, Marcum, Noe, Petty, Rattliff, B. Richardson, Robinson, Romines, Schmidt, Stewart, Tobin, Van Horn, Worthington, Wright.

The motion to recess was rejected.

Motions, Petitions and Communications (Continued)

Representative Boswell moved the adoption of the following Legislative Citation No. 61:

The House of Representatives hereby congratulates the Apollo High School basketball team of Daviess County and their Coach, Wayne Chapman, for their outstanding basketball record. The Apollo High School basketball team traversed the path from obscurity to glory by winning the 1978 Louisville Invitational Tournament. The Cinderella team returned to Kentucky's third region with an unblemished record of 19 victories and no defeats. In capturing the LIT crown the team, under the able guidance of Coach Wayne Chapman, defeated four powerhouse schools including the number one and number two ranked teams in the state on the same day. The majestic manner in which their victory was accomplished makes the team truly worthy to be called the Eagles. This triumph will forever be a source of pride and honor to the team, their parents and classmates and all who proclaim their affection and allegiance to western Kentucky. We are proud of you great accomplishments. (Sponsored by Representatives Boswell and Johnson)

Agreed.

Orders of the Day

HB 9, with Committee Substitute and Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **HB 9.** Agreed.

Representative Gray moved that **HB 9,** by way of Committee Substitute, be passed.

On the roll call the vote was yeas 55-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Burnette, Clarke, Crupper, Cyrus, Davenport, Dawahare, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guy, Haering, Hancock, Hines, Hurst, Johnson, Kenton, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, McKinney, Nett, Noe, Pearman, Petty, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Williams, Wright, Yates. Nays 24-Adams, Blythe, Carpenter, Craddock, Foster, Guenthner, Head, Holbrook, Holloway, Jones, Layman, List, Marcum, May, McNutt, Plummer, Richards, Robinson, Schmidt, R. Smith, Tobin, Trevey, Wilborn, Worthington.

HB 9, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 9,** by way of Committee Substitute, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 491 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richrdson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of the following Floor Amendment No. 1 to **HB 491:**

Amend printed copy of **HB 491,** page 3, line 26, after line 26 insert "natural parent."

and on page 4, line 1, before the word "failure" insert " [The"

and on page 4, line 6, after "." insert "]"

Agreed.

Representative Deskins moved that **HB 491,** as amended, be passed.

Representative Thomas moved that **HB 491** be laid on the Clerk's desk.

Representative Mann moved that **HB 491** be laid on the table.

On the Roll call the vote was yeas 23-Beshear, Burnette, Craddock, DeMarcus, Foster, Hancock, Hines, Holloway, Kleier, Layman, Mann, McNutt, Nett, O;Brien, Pearman, Plummer, Richards, Schmidt, R. Smith, Stone, Tobin, Trevey. Wright. Nays 53-W. Allen, Bennett, Benson, Blythe, Brown, Bruce, Burch, Clapp, Clarke, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Holbrook, Johnson, Kenton, Kidd, LeMaster, Lindsay, List, Little, Marcum, McKinney, Morris, Noe, Overstreet, Patrick, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, Siemens, F. Smith, Stewart, Thomas, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Yates.

The motion that **HB 491** be laid on the table was rejected.

Representative Deksins moved that **HB 491,** as amended, be passed.

On the roll call the vote was yeas 29-Arnold, Beshear, Boswell, Brinkley, Burnette, Clarke, Craddock, DeMarcus, Foster, Head, Hines, Holloway, Kleier, Layman, Mann, McNutt, Noe, O'Brien, Pearman, Petty, Plummer, Richards, Schmidt, R. Smith, Stone, Thomas, Tobin, Trevey, Wright. Nays 48-W. Allen, Bennett, Benson, Blythe, Boatwright, Brown, Bruce, Burch, Clapp, Crupper, Cyrus, DeFalaise, Dskins, Dietz, Dunn, Gray, Guenthner, Guy, Haering, Holbrook, Johnson, Kenton, Kidd, LeMaster, Lindsay, List, Little, Marcum, McKinney, Morris, Nett, Overstreet, Patrick, Rattliff, B. Richardson, P. Richardson, Riner, Robinson, Romines, F. Smith, Stewart, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Yates.

The motion that **HB 491** be laid on the Clerk's desk was rejected.

Representative Deskins moved that **HB 491**, as amended, be passed.

On the roll call the vote was yeas 44-Bennett, Benson, Blandford, Blythe, Brown, Carpenter, Clapp, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Holbrook, Johnson, Kenton, LeMaster, Lindsay, Little, Marcum, McKinney, Noe, Overstreet, Patrick, Plummer, Rattliff, B. Richardson, Riner, Robinson, Romines, Stewart, Turner, Van Horn, White, Wilborn, Williasm, Yates. Nays 45- Adams, W. Allen, Arnold, Bendl, Beshear, Boatwright, Boswell, Brinkley, Burch, Burnette, Clarke, Craddock, DeMarcus, Foster, Haering, Hancock, Head, Hines, Holloway, Hurst, Kidd, Kleier, Layman, List, Mann, McNutt, Morris, Nett, O'Brien, Pearman, Petty, Richards, P. Richardson, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Weinberg, Worthington, Wright.

HB 491, as amended, was defeated.

Representative Hancock moved that the vote by which **HB 491**, as amended, was defeated be reconsidered and said motion be postponed indefinitely. Agreed.

HB 168 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the following Floor Amendment No. 1 to **HB 168:**

Amend printed copy of **HB 168**, page 1, line 3, by inserting after the word "purchase" the following "textbooks from publishers whose books have been adopted by the state textbook commission"; and on

page 1, line 7 by deleting ":" and inserting in lieu thereof "."; and on

page 1, line 8 through 11 by deleting same; and on

page 1, line 14 by deleting "and materials"; and on

page 1, line 15 by deleting "and supplementary instructional"; and on

page 1, line 16, by deleting "materials"; and on

page 2, line 3 by deleting "and supplementary instructional materials"; and on

page 2, line 4 by deleting "and supple-"; and on

page 2, line 5 by deleting "mentary instructional materials"; and on

page 2, line 6, by inserting after the word "libraries" the following: "The rules and regulations shall provide for the allocation of textbooks in a manner reflecting, and not to exceed the expressly limited appropriation to fund the Act."; and on

page 2, line 11 by deleting "and supplementary instruction"; and on

page 2, line 12 by deleting "materials"; and on

page 2, line 14, by deleting "and materials"; and on

page 2, line 15 by deleting "and materials"; and on

page 2, line 16 by deleting "and materials"; and on page 2, line 22 by deleting "schools at" and inserting the following: "school student as provided by rule and regulation of the department of libraries to the extent allowed by the appropriation provided in Section 2 of this Act."; and on

page 2, lines 23, 24 and 25 by deleting same; and on

page 3, line 2 by deleting "$1,407,128 for the 1978-80 biennium" and inserting in lieu thereof "$25,000 for fiscal year 1978-79, which sum shall not lapse but shall be carried forward to the next fiscal year."

Agreed.

Representative Nett moved that **HB 168,** as amended, be passed.

On the roll call the vote was yeas 61-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Burch, Clapp, Clarke, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Kidd, Kleier, Layman, LeMaster, Mann, Marcum, May, McNutt, Morris, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Robinson, Schmidt, F. Smith, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Yates. Nays 3-Blythe, Lindsay, Worthington.

HB 168, as amended, was passed.

Representative Donnermeyer moved the adoption of the following Title Amendment to **HB 168:**

Amend printed copy of **HB 168,** the title by deleting "and supplementary materials".

Agreed.

Representative Nett moved that the vote by which **HB 168,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 325, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Boatwright moved the adoption of the Committee Amendment No. 1 to **HB 325.** Agreed.

Representative Boatwright moved that **HB 325,** as amended, be passed.

On the roll call the vote was yeas 58-Bendl, Bennett, Beshear, Blandford, Blythe, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Gray, Guy, Haering, Hines, Holbrook, Jones, Kidd, Lindsay, Little, Mann, Marcum, May, McNutt, Morris, Nett, O'Brien, Overstreet, Petty, Richards, B. Richardson, P. Richardson, Riner, Romines, R. Smith, Stewart, Stone, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 8-J. Allen, Hancock, Holloway, Layman, LeMaster, Pearman, Schmidt, Trevey.

HB 325, as amended, was passed and the title agreed to.

Representative Boatwright moved that the vote by which **HB 325,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 372, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Carpenter moved the adoption of the Committee Amendment No. 1 to **HB 372.** Agreed.

Representative Carpenter moved that **HB 372,** as amended, be passed.

On the roll call the vote was yeas 75-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holloway, Johnson, Jones, Kidd, Layman, Little, Mann, Marcum, May, McNutt, Morris, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 0.

HB 372, as amended, was passed and the title agreed to.

Representative Carpenter moved that the vote by which **HB 372,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 458 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Fitzgerald moved that **HB 458** be passed.

On the roll call the vote was yeas 77-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, Marcum, McKinney, McNutt, Nett, O'Brien, Patrick, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 0.

HB 458 was passed and the title agreed to.

Representative Fitzgerald moved that the vote by which **HB 458** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 502 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

On the roll call the vote was yeas 64-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boswell, Brinkley, Burch, Clapp, Clarke, Craddock, Cyrus, Davenport, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gay, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Lindsay, Mann, McNutt, Morris, O'Brien, Overstreet, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Wilborn, Williams, Worthington, Yates. Nays 13-W. Allen, Brown, Burnette, Crupper, Fitzgerald, Gray, Haering, Little, Marcum,Patrick, Pearman, Van Horn, Weinberg.

HB 502 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 502** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 506 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Amendment No. 1 to **HB 506.** Agreed.

Representative Lindsay moved that **HB 506,** as amended, be passed.

On the roll call the vote was yeas 41-J. Allen, W. Allen, Bennett, Boswell, Brown, Clapp, Craddock, Cyrus, Davenport, DeFalaise, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guenthner, Guy, Haering, Head, Hines, Holloway, Hurst, Jones, Kidd, Layman, Lindsay, Mann, Nett, Noe, Patrick, Petty, Plummer, B. Richardson, Riner, Romines, Stewart, Stone, Trevey, Weinberg, Williams, Yates. Nays 34-Adams, Bendl, Benson, Beshear, Blandford, Blythe, Brinkley, Bruce, Burch, Burnette, Clarke, Crupper, DeMarcus, Dietz, Hancock, Johnson, LeMaster, Little, May, McKinney, McNutt, Morris, Overstreet, Pearman, Richards, P.

Richardson, Schmidt, F. Smith, R. Smith, Thomas, Tobin, Van Horn, White, Wilborn.

HB 506, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 506,** as amended, was passed be reconsidered and said motion be postponed indefinitely.

On the roll call the vote was yeas 32: J. Allen, Arnold, Boswell, Clapp, Craddock, Cyrus, DeFalaise, DeMarcus, Dunn, Fitzgerald, Foster, Guy, Haering, Head, Hines, Holbrook, Hurst, Jones, Kidd, Lindsay, Mann, Patrick, B. Richardson, Riner, Romines, Stewart, Stone, Trevey, Weinberg, Williams, Worthington, Yates. Nays 39-Adams, W. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boatwright, Brinkley, Bruce, Burch, Clarke, Crupper, Davenport, Dietz, Donnermeyer, Guenthner, Hancock, Johnson, Little, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, Overstreet, Pearman, Plummer, Richards, P. Richardson, F. Smith, R. Smith, Thomas, Tobin, Van Horn, White.

The motion that the vote by which **HB 506,** as amended, was passed be reconsidered and said motion be postponed indefinitely was rejected.

HB 550 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dunn moved the adoption of the following Floor Amendment No. 1 to **HB 550:**

Amend printed copy of **HB 550,** page 1, line 7, after "action." delete the following: "*The voter must receive actual notice of the deletion of his name from the register.*"

Agreed.

Representative Dunn moved that **HB 550,** as amended, be passed.

On the roll call the vote was yeas 76-Adams, J. Allen, W. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Clapp, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Isler, Johnson, Jones, Kidd, Kleier, Layman, LeMaster, Little, Mann, May, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Pearman, Petty, Plummer, Priddy, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, F. Smith, R. Smith, Stewart, Tobin, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 0.

HB 550, as amended, was passed and the title agreed to.

Representative Dunn moved that the vote by which **HB 550,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 609 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the following Floor Amendment No. 1 to **HB 609:**

Amend printed copy of **HB 609,** page 4, after line 29 by adding:

"Elizabethtown City Treasurer
Post Office Box 550
City Hall
West Dixie Avenue
Elizabethtown, Kentucky 42701 $10,338.50"

Agreed.

Representative B. Richardson moved that **HB 609,** as amended, be passed.

On the roll call the vote was yeas 75-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Blandford, Brown, Bruce, Burch, Burnette, Clapp, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kidd, Kleier, Layman, Lindsay, Little, Marcum, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Overstreet, Patrick, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, F. Smith, R. Smith, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates. Nays 4-W. Allen, LeMaster, Pearman, Tobin.

HB 609, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 609,** as amended, as passed be reconsidered and said motion be postponed indefinitely. Agreed.

The Speaker resumed the Chair.

HB 623, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved the adoption of the Committee Amendment No. 1 to **HB 623.** Agreed.

Representative Bruce moved that **HB 623,** as amended, be passed.

On the roll call the vote was yeas 76-Adams, J. Allen, Arnold, Bendl, Bennett, Beshear, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Hurst, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Little, Mann, Marcum, May, McKinney, McNutt, Morris, Noe, O'Brien, Patrick, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, F. Smith, Stewart, Stone, Thomas, Tobin, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 1-Brown.

HB 623, as amended, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 623,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 628 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mann moved that **HB 628** be passed.

Representative Schmidt moved that **HB 628** be laid on the table.

On the roll call the vote was yeas 19-W. Allen, Beshear, Blythe, Davenport, DeMarcus, Deskins, Dietz, Guenthner, Hancock, Holbrook, Holloway, Layman, Marcum, Patrick, Petty, Rattliff, P. Richardson, Riner, Schmidt. Nays 53-J. Allen, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Bruce. Burch, Clapp, Craddock, Cyrus, Dawahare, DeFalaise, Donnermeyer, Dunn, Fitzgerald, Gay, Gray, Guy, Haering, Hurst, Kenton, Kidd, Kleier, LeMaster, Little, Mann, May, McKinney, McNutt, Morris, Nett, Noe, O'Brien, Plummer, Richards, B. Richardson, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Williams, Worthington, Yates.

The motion that **HB 628** be laid on the table was rejected.

On the roll call the vote was yeas 55-J. Allen, Arnold, Bennett, Benson, Blandford, Boatwright, Boswell, Brinkley, Bruce, Burch, Burnette, Clapp, Craddock, Cyrus, Dawahare, DeMarcus, Donnermeyer, Dunn, Fitzgerald, Gray, Guy, Haering, Head, Hurst, Kidd, Kleier, LeMaster, Lindsay, Little, Mann, Marcum, May, McNutt, Morris, Nett, Noe, O'Brien, Pearman, Richards, B. Richardson, Romines, Siemens, Stewart, Stone, Thomas, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Williams, Worthington, Yates. Nays 25-W. Allen, Bendl, Beshear, Blythe, Clarke, Davenport, Deskins, Dietz, Foster, Guenthner, Hancock, Holbrook, Holloway, Johnson, Jones, Layman, Overstreet, Patrick, Petty, Plummer, Rattliff, P. Richardson, Riner, Schmidt, Trevey.

HB 628 was passed and the title agreed to.

Representative Mann moved that the vote by which **HB 628** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

Representative B. Richardson moved that **HB 632** be laid on the Clerk's desk. Agreed.

HCR 56 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Romines moved that **HCR 56** be adopted.

On the roll call the vote was yeas 66-J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boatwright, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Carpenter, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gay, Gray, Guenthner, Guy, Haering, Hancock, Head, Holloway, Kenton, Kidd, Kleier, Layman, LeMaster, Marcum, McKinney, McNutt, Morris, Noe, O'Brien, Overstreet, Pearman, Petty, Plummer, Rattliff, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Worthington, Yates. Nays 0.

HCR 56 was adopted and the title agreed to.

Representative Romines moved that the vote by which **HCR 56** was adopted be reconsidered and said motion be postponed indefinitely. Agreed.

SB 90 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **SB 90** be passed.

On the roll call the vote was yeas 52-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blythe, Boswell, Brown, Bruce, Burch, Carpenter, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Gray, Guenthner, Guy, Haering, Hancock, Head, Holloway, Jones, Kenton, Kleier, LeMaster, Mann, Marcum, McKinney, Morris, Nett, O'Brien, Petty, Plummer, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Trevey, Turner, Van Horn, Weinberg, Yates. Nays 17-Arnold, Blandford, Brinkley, Burnette, Craddock, Dawahare, Foster, Gay, Holbrook, McNutt, Noe, Overstreet, Pearman, Rattliff, Richards, B. Richardson, Thomas.

SB 90 was passed and the title agreed to.

Representative Yates moved that the vote by which **SB 90** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 225, with Committee Amendment attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of the Committee Amendment No. 1 to **SB 225.** Agreed.

Representative B. Richardson moved that **SB 225** be passed, as amened.

On the roll call the vote was yeas 59-Adams, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boathwright, Boswell, Brinkley, Burch, Burnette, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Johnson, Jones, Kenton, Kidd, Lindsay, Mann, Marcum, May, McNutt, Nett, O'Brien, Rattliff, Richards, B. Richardson, P.

Richardson, Riner, Romines, Schmidt, Siemens, R. Smith, Stone, Trevey, Turner, Van Horn, Weinberg, Wells, Wilborn, Yates. Nays-Fitzgerald, Holbrook, Holloway, Kleier, Layman, LeMaster, Overstreet, Pearman, Plummer, Thomas.

SB 225, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 225,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

HB 602 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siemens moved the adoption of the following Floor Amendment No. 1 to **HB 602:**

Amend printed copy of **HB 602,** page 2, line 12, after "97.050." by adding the following: "*This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance and conduct of museums.*"

Agreed.

Representative Siemens moved that **HB 602,** as amended, be passed.

On the roll call the vote was yeas 67-Adams, J. Allen, Arnold, Bendl, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brinkley, Brown, Bruce, Burch, Burnette, Crupper, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Mann, Marcum, McNutt, Morris, Nett, Noe, O'Brien, Petty, Plummer, Rattliff, Richards, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Wilborn, Yates. Nays 1-Pearman.

HB 602, as amended, was passed and the title agreed to.

Representative Siemens moved that the vote by which **HB 602,** as amended, was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 20 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 20** be passed.

On the roll call the vote was yeas 70-Adams, J. Allen, Arnold, Bennett, Benson, Beshear, Blandford, Blythe, Boswell, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dawahare, DeFalaise, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Hancock, Head, Hines, Holbrook, Holloway, Johnson, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Mann, Marcum, McNutt, Nett, O'Brien, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Yates. Nays 1-Brinkley.

SB 20 was passed and the title agreed to.

Representative Richards moved that the vote by which **SB 20** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 21 taken from Orders of the Day and ordered read at length for the third time. Repesentative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 21** be passed.

On the roll call the vote was yeas 65-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Blandford, Boswell, Brown, Burch, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, DeFalaise, Deskins, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Lindsay, Mann, Marcum, McNutt, Nett, Noe, O'Brien, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Yates. Nays 1-Fitzgerald.

SB 21 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 21** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 25 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 25** be passed.

On the roll call the vote was yeas 63-Adams, J. Allen, Bendl, Benson, Beshear, Boatwright, Boswell, Brown, Burnette, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Jones, Kenton, Kidd, Kleier, Layman, LeMaster, Mann, Marcum, McNutt, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Rattliff, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Weinberg, Wells, White, Wilborn, Worthington, Yates. Nays 1-Van Horn.

SB 25 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 25** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 26 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 26** be passed.

On the roll call the vote was yeas 59-J. Allen, Bendl, Beshear, Blandford, Boatwright, Boswell, Brown, Clarke, Craddock, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Foster, Gray, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Jones, Kenton, Kidd, Kleier, Layman, Lindsay, Mann, Marcum, McNutt, Noe, O'Brien, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Yates. Nays 1-Adams.

SB 26 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 26** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 27 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 27** be passed.

On the roll call the vote was yeas 61-Adams, J. Allen, Bendl, Benson, Beshear, Blandford, Boswell, Brinkley, Brown, Burnette, Carpenter, Clarke, Craddock, Crupper, Cyrus, Davenport, Dietz, Donnermeyer, Dunn, Foster, Guy, Haering, Hancock, Head, Hines, Holbrook, Holloway, Jones, Kenton, Kidd, Layman, Mann, Marcum, McNutt, Noe, O'Brien, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Romines, Schmidt, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, Wells, White, Wilborn, Worthington, Yates. Nays 0.

SB 27 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 27** was passed be reconsidered and said motion be postponed indefinitely. Agreed.

SB 31 taken from Orders of the Day and ordered read at length for the third time. Representative B. Richardson moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **SB 31** be passed.

On the roll call the vote was yeas 59-Adams, J. Allen, Bendl, Bennett, Benson, Beshear, Brown, Burnette, Carpenter, Clarke, Crupper, Cyrus, Davenport, DeMarcus, Dietz, Donnermeyer, Dunn, Fitzgerald, Foster, Gray, Guenthner, Guy, Haering, Hancock, Head, Holbrook, Holloway, Jones, Kidd, Layman, Marcum, May, McNutt, Nett, Noe, O'Brien, Pearman, Petty, Plummer, Richards, B. Richardson, P. Richardson, Riner, Romines, Siemens, F. Smith, R. Smith, Stewart, Stone, Thomas, Tobin, Trevey, Turner, Van Horn, Weinberg, White, Wilborn, Worthington, Yates. Nays 0.

SB 31 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 31** was passed be reconsidered and said motion be postponed indefinitely. Agred.

Representtive B. Richardson moved that all Bills and Resolutions remaining in Orders of the Day be deferred and that they retain their position. Agreed.

Announcements

Representative B. Richardson moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so until 3:00 p.m. Monday, March 6, 1978. Agreed.

Representative B. Richardson moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Fitzgerald presiding.

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to **HB 264** by Representative Donnermeyer.

Floor Amendment No. 2 to **HB 546** by Representative Weinberg.

Floor Amendment No. 1 to Committee Substitute to **HB 686** by Representative Lindsay.

Floor Amendment No. 1 to **SB 3** by Representative Noe.

Floor Amendment No. 1 to **SB 94** by Representative Worthington.

Floor (Title) Amendment and Floor Amendment No. 1 to **SB 131** by Representative Van Horn.

Floor Amendment No. 1 to **SB 146** by Representative B. Richardson.

Floor Amendment No. 1 to **SB 148** by Representative Patrick.

Floor Amendment No. 1 to **SB 305** by Representative Pearman.

Floor Amendment No. 1 to **HB 717** by Representative Kenton.

Representative B. Richardson moved that the rules be suspended for Introduction of Bills and Resolutions and Report of Committees. Agreed.

Introduction of Bills and Resolutions

HB 769, by Representative Johnson: AN ACT relating to the examination of electrical contractors and electricians.

HB 770, by Representative B. Richardson: AN ACT realting to the unauthorized manufacture, reproduction and certain recorded devices for sale.

HCR 110, by Representatives Kleier, Beshear, McNutt, Adams, Bendl, Brinkley, Burch, Burnette, Haering, Layman, Overstreet, P. Richardson, Riner and Trevey: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Health and Welfare to study the foster care program in Kentucky and the need for a Kentucky advisory board for foster care.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration.

Business Organizations and Professions: **HB 733.**

Banking and Insurance: **SB 179.**

Education: **SB 155, HB 475.**

Judiciary-Courts: **SB 288.**

Judiciary-Statutes: **SB 133, SB 207, SB 260, HB 726, SB 142.**

Appropriations and Revenue: **SB 257, HB 326, HB 760, HB 551.**

Counties and Special Districts: **SB 188, SB 216.**

Agriculture and Natural Resources: **SB 174.**

State Government: **SB 305.**

Report on Enrolled Bills

HB 5, HB 135, HB 173, and **HB 281** delivered to the Senate, signed by President. Ordered delivered to the Governor.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 229** and **HB 216,** with Committee Amendment attached thereto, with the expresssion of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 229, AN ACT relating to appropriations for the operation, maintenance, support and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I
GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ending June 30, 1978, and, including any unappropriated surplus to the General Fund as of June 30, 1978, for the fiscal year beginning July 1, 1978, and ending June 30, 1979, and, including any unappropriated surplus to the General Fund as of June 30, 1979, for the fiscal year beginning July 1, 1979, and ending June 30, 1980, the following sums for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 21, 42 and 45 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I listed as follows:

A. GENERAL GOVERNMENT

1. GOVERNOR

1978-79	$ 789,800
1979-80	$ 821,300

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2. LIEUTENANT GOVERNOR

1978-79	$ 379,100
1979-80	$ 407,100

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3. SECRETARY OF STATE

a. General Operations

1978-79	$ 645,800
1979-80	$ 685,500

b. Restoration of Land Grant Books

1978-79	$ 47,000
1979-80	$ 47,000

TOTAL - SECRETARY OF STATE

1978-79	$ 692,800
1979-80	$ 732,500

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4. BOARD OF ELECTIONS

1978-79	$ 1,137,700
1979-80	$ 1,166,200

Included in the above appropriation is $705,000 each fiscal year to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.105). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any expenses in excess of the above amounts shall be deemed a necessary governmental expense.

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5. TREASURER

1978-79	$ 853,200
1979-80	$ 882,000

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6. DEPARTMENT OF LAW

1978-79	$ 2,383,700
1979-80	$ 2,597,700

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7. AUDITOR OF PUBLIC ACCOUNTS

1978-79	$ 50,000
1979-80	$ 50,000

Any expenses incurred in the auditing of federal disaster relief funds shall be deemed a necessary governmental expense.

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8. SECRETARY OF THE CABINET

1978-79	$ 520,300
1979-80	$ 545,200

9. GENERAL CONTINGENCY FUND

1978-79	$ 2,250,000
1979-80	$ 2,250,000

Funds are appropriated for meeting expenses deemed necessary by the Governor, and to be expended by the Governor, at his discretion, for any emergency or other contingency that he may determine requires the expenditure of any part of said fund. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

10. CAPITAL PLAZA

1978-79	$ 2,252,600
1979-80	$ 2,239,300

11. COUNTY COSTS

1977-78	$ 262,000
1978-79	$ 12,245,000
1979-80	$ 12,265,000

All county costs funded by the General Fund are deemed to be necessary governmental expenses and additional funds may be allotted from the General Fund surplus by the Secretary of the Executive Department for Finance and Administration.

12. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

a. State Planning Fund

1978-79	$ 2,100,000
1979-80	$ 2,100,000

Any portion of the above appropriation for the State Planning Fund may be transferred to other major program areas or agencies of state government for the purpose of funding planning studies approved by the State Planning Committee. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

b. General Operations

1977-78	$ 1,356,900
1978-79	$ 13,546,800
1979-80	$ 13,717,800

Included in the above appropriation is $150,000 each fiscal year for payment to - the city of Frankfort for the provision of fire and police protection and other services for state owned property in accordance with KRS 45.155.

c. Salary Improvements for State Employees

1978-79	$ 16,800,000
1979-80	$ 18,800,000

Any portion of the above appropriation may be transferred to any major program area or agency of state government for the purpose of meeting salary and benefit improvements for state employees as determined to be needed by the Executive Department for Finance and Administration based upon the recommendation of the Department of Personnel.

Any unexpended balance in the account for salary improvements for state employees at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

d. Maxey Flats Operation

1977-78	$ 350,000
1978-79	$ 700,000
1979-80	$ 700,000

Funds are appropriated for the operations of the Maxey Flats nuclear waste facility. Any unexpended balance at the close of the 1977-78 fiscal year shall not lapse, but shall continue into the 1978-79 fiscal year and any unexpended blance at the close of the 1978-79 fiscal year shall not lapse but shall continue into the 1979-80 fiscal year.

e. Coal Miners' Pneumoconiosis Fund

1978-79	$ 4,000,000
1979-80	$ 4,000,000

These funds are appropriated to the Coal Miners' Pneumoconiosis Fund. This fund shall be used for compensating coal worker claimants entitled to benefits for coal workers' pneumoconiosis or silicosis as defined in KRS Chapter 342. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

f. Coal Severance Economic Aid Fund

1978-79	$ 5,000,000
1979-80	$ 5,000,000

Funds are appropriated for the purpose of making grants to the coal severance economic aid boards in accordance with KRS 42.330. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

g. Area Development Fund

1978-79	$ 6,000,000
1979-80	$ 6,000,000

Funds are appropriated for the purpose of making grants to the area development districts in accordance with Acts 1976, chapter 339, section 2. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

TOTAL - EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1977-78	$ 1,706,900
1978-79	$ 48,146,800
1979-80	$ 50,317,800

13. GENERAL OBLIGATION BONDS

1978-79	$ 10,407,000
1979-80	$ 10,423,000

14. COMMISSION ON HUMAN RIGHTS

1978-79	$ 769,700
1979-80	$ 801,100

15. DEPARTMENT FOR LOCAL GOVERNMENT

1978-79	$ 3,340,500
1979-80	$ 3,341,800

16. DEPARTMENT OF MILITARY AFFAIRS

1977-78	$ 4,700,000
1978-79	$ 2,030,900
1979-80	$ 2,171,400

Included in the above appropriation is $4,500,000 in fiscal year 1977-78 for payment of the state's share of the cost of the Individual and Family Grant program to the federal government. This program provided benefits to those involved in the April, 1977 flood in fifteen (15) Eastern Kentucky counties.

Any expenditures of funds as a result of the Governor's call of the Kentucky National Guard to active duty is hereby declared to be a necessary governmental expense provided, however, that an emergency situation shall have been declared to exist by the Governor.

17. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Kentucky Athletic Commission

1978-79	$ 43,700
1979-80	$ 45,700

b. Board of Proprietary Education

1978-79	$ 25,000
1979-80	$ 25,000

TOTAL— OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

1978-79	$ 68,700
1979-80	$ 70,700

18. DEPARTMENT OF PERSONNEL

1978-79	$ 2,864,300
1979-80	$ 3,067,100

Included in the above appropriation is $500,000 in fiscal year 1978-79 and $600,000 in fiscal year 1979-80 for an Automobile Liability Reimbursement program to be administered by the Department of Personnel.

Notwithstanding the provisions of KRS 18.330, the above appropriations are to be used for the pro-rata cost of administering a merit system of personnel administration for the civil service of the Commonwealth for all departments, commissions, boards, or other agencies which receive support from the General Fund or Revolving Trust and Agency Funds. Said appropriations may also be used for special training programs approved by the Secretary of the Executive Department for Finance and Administration.

Relative to merit hearings before the Personnel Board, the particular agency of which the complainant is or was an employee shall bear all of the administrative costs thereof whenever the Personnel Board rules in favor of the complainant, such as for example, but not limited to, the fees of court reporters, the printing or other reproduction expenses related to hearing transcripts, and other related matters. Relative to all appeals resulting from merit hearings of the Personnel Board, including appeals to the Circuit Court, Court of Appeals, or the Supreme Court, the particular agency of which the complainant in said hearing is or was an employee shall bear all of the costs thereof whenever the courts rule in favor of the complainant, chargeable to the Personnel Board, such as for example, but not limited to, legal fees and court costs and fees.

19. DEPARTMENT OF PUBLIC INFORMATION

1977-78	$ 200,000
1978-79	$ 4,182,000
1979-80	$ 4,255,000

Included in the above appropriation is $359,700 in fiscal year 1978-79 and $359,700 in fiscal year 1979-80 for the Cooperative Advertising program to encourage and assist local governments and agencies in the promotion of tourist attractions. The department may make matching grants not to exceed fifty percent (50%) of project cost to local governments and agencies for such purpose.

20. DEPARTMENT OF REVENUE

1978-79	$ 22,236,600
1979-80	$ 23,305,900

Included in the above appropriation is $6,418,400 in fiscal year 1978-79 and $6,893,900 in fiscal year 1979-80 for property valuation administrators; any expenses in excess of these amounts for property valuation administrators shall be deemed necessary governmental expenses.

21. FINANCIAL DISCLOSURE REVIEW COMMISSION

1978-79	$ 50,000
1979-80	$ 50,000

22. KENTUCKY PUBLIC EMPLOYEE DEFERRED COMPENSATION SYSTEM

1978-79	$ 86,400
1979-80	$ 90,900

23. COMMISSION ON WOMEN

1978-79	$ 82,700
1979-80	$ 85,500

24. PROSECUTORS ADVISORY COUNCIL

1978-79	$ 8,011,800
1979-80	$ 8,354,400

Included in the above appropriation is $100,000 in each fiscal year for increased personnel and salary levels for the Commonwealth Attorneys support staff and County Attorneys support staff. Allocation decisions concerning these discretionary funds will be made by the Prosecutors Advisory Council.

All expenditures concerning Commonwealth Attorneys and County Attorneys will be administered by the Executive Department for Finance and Administration while policy determination and decisions relating to discretionary funds will be made by the Prosecutors Advisory Council.

25. KENTUCKY HORSE COUNCIL

1978-79	$ 78,300
1979-80	$ 87,700

26. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

1978-79	$ 586,000
1979-80	$ 586,000

Any unexpended balance, not to exceed $150,000, at the close of fiscal year 1977-78 shall not lapse, but shall continue into the 1978-79 fiscal year. Also, any unexpended balance, not to exceed $150,000, at the close of fiscal year 1978-79 shall not lapse, but shall continue into the 1979-80 fiscal year.

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27. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

1978-79	$ 1,425,500
1979-80	$ 1,425,500

All items included within the Appropriations Not Otherwise Classified category shall be deemed necessary governmental expenses, and any expenditure over the above amounts is to be paid from the General Fund surplus. Appropriations Not Otherwise Classified includes the following items:

a. Back Tax Collections
b. Board of Claims Awards

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $500 in cases where the operating agency admits negligence shall be paid from funds available for the operations of such agencies.

c. Judgments

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45. Also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941. However, in no event shall the total payments exceed the sum of $5,500,000 in any fiscal year.

d. Prior Year Claims
e. Unredeemed Checks Refunded

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Confederate Pensions
g. Blanket Employees Bonds

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

h. Franklin Circuit Court

For purposes of supplies and equipment in accordance with KRS 28.165.

i. Frankfort Planning Commission
j. Frankfort Cemetery
k. Public Improvements

Funds are appropriated for paying assessments for public improvements against property owned by the State, and for which said assessments the State is deemed to be liable.

l. Money Refunded

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Executive Department for Finance and Administration and the Attorney General.

m. Police and Firemen - Life Insurance

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

n. Workmen's Compensation— Fee officers in counties over 75,000 in population

o. Master Commissioners— Employer Retirement

p. Master Commissioners— Social Security

q. Political Parties— Income Tax Checkoff

Funds are appropriated to pay all amounts designated by taxpayers on their income tax returns for remittance to the political party of their choice in accordance with KRS 141.072.

TOTAL - GENERAL GOVERNMENT

1977-78	$ 6,868,900
1978-79	$127,921,400
1979-80	$132,390,100

B. DEVELOPMENT

28.OFFICE OF THE SECRETARY

1977-78	$ 4,000,000
1978-79	$ 4,129,300
1979-80	$ 1,194,700

Included in the above appropriation is $4,000,000 in fiscal year 1977-78 and $3,000,000 in fiscal year 1978-79 for the Local Convention and Community Centers Fund. Any unexpended balance at the close of the 1977-78 fiscal year shall not lapse, but shall continue into the 1978-79 fiscal year. Also, any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

29.KENTUCKY DEPARTMENT OF ENERGY

1978-79	$ 757,700
1979-80	$ 828,800

30.DEPARTMENT OF PARKS

1977-78	$ 160,000
1978-79	$ 15,243,300
1979-80	$ 15,687,800

31.DEPARTMENT OF AGRICULTURE

1978-79	$ 5,089,300
1979-80	$ 5,267,700

32.BREAKS INTERSTATE PARK COMMISSION

1978-79	$ 112,500
1979-80	$ 112,500

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

33.COUNCIL OF ECONOMIC ADVISORS

1978-79	$ 141,500
1979-80	$ 141,500

34.DEPARTMENT OF COMMERCE

1977-78	$ 34,400
1978-79	$ 3,643,500
1979-80	$ 4,037,700

35.STATE FAIR BOARD

1977-78	$ 140,500
1978-79	$ 3,434,200
1979-80	$ 4,561,800

36.COUNCIL ON AGRICULTURE

1978-79	$ 426,400
1979-80	$ 439,900

37.KENTUCKY CENTER FOR ENERGY RESEARCH

a. General Operations

1977-78	$ 883,200
1978-79	$ 5,945,600
1979-80	$ 6,237,300

b. Demonstration Trust Fund

1978-79	$ 1,000,000
1979-80	$ 3,400,000

TOTAL - KENTUCKY CENTER FOR ENERGY RESEARCH

1977-78	$ 883,200
1978-79	$ 6,945,600
1979-80	$ 9,637,300

38. KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY

1978-79	$ 4,050,000
1979-80	$ 1,550,000

Included in the above appropriation is $2,500,000 in fiscal year 1978-79 for the Multi-County Industrial Site Development program. Any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into 1979-80 fiscal year.

Included in the above appropriation is $750,000 in each fiscal year for an Agriculture Loan program. Also included in the above appropriation is $500,000 in each fiscal year for a Tourism Loan program.

TOTAL - DEVELOPMENT CABINET

1977-78	$ 5,218,100
1978-79	$ 43,973,300
1979-80	$ 43,459,700

C. EDUCATION

39. OFFICE OF THE SECRETARY

1978-79	$ 315,000
1979-80	$ 304,500

40. ARTS COMMISSION

a. General Operations

1978-79	$ 351,400
1979-80	$ 353,000

b. Challenge Grants

1978-79	$ 408,000
1979-80	$ 489,600

To be distributed to local arts fund raising organizations in accordance with applicable regulations promulgated by the Kentucky Arts Commission.

TOTAL - ARTS COMMISSION

1978-79	$ 759,400
1979-80	$ 842,600

41. DEPARTMENT OF EDUCATION

a. General Administration and Support Services

1977-78	$ 338,000
1978-79	$ 4,056,900
1979-80	$ 4,150,500

b. Education for Exceptional Children

1) General Operations

1978-79	$ 1,385,000
1979-80	$ 1,522,200

2) Residential Services

1977-78	$ 100,000
1978-79	$ 3,974,500
1979-80	$ 4,627,800

Total— Education for Exceptional Children

1977-78	$ 100,000
1978-79	$ 5,359,500
1979-80	$ 6,150,000

c. School Foundation Program

1978-79	$593,722,500
1979-80	$671,531,000

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

The amount to be included for the 1978-79 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

	I	II	III	IV	V
Rank					
Experience					
0-3 years	$12,770	$11,000	$ 9,230	$7,510	$6,630
4-9 years	14,100	12,330	10,560	7,510	6,630
10 years & over	15,290	13,520	11,750	7,510	6,630

Beginning with the school year 1979-80, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

	I	II	III	IV	V
Rank					
Experience					
0-3 years	$13,480	$11,630	$ 9,780	$7,850	$6,920
4-9 years	15,320	13,480	11,630	7,850	6,920
10 years & over	16,990	15,140	13,290	7,850	6,920

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the School Foundation Program allotment for that rank, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board for Elementary and Secondary Education shall certify such contention to the Department of Revenue. Said department shall then determine whether or not there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Department of Revenue shall then certify its determination to the State Board for Elementary and Secondary Education, and said Board shall accept such certified determination as final.

The State Board for Elementary and Secondary Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1978-79 and 1979-80 in which the total amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries in the preceding year, plus the additional amount for teachers' salaries received by the district under this appropriation for a 185 day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year in each local school district.

The allotment to any school district of classroom units, pursuant to KRS 157.360(1) shall not exceed the number of teachers employed by that school district.

Entitlement for basic classroom units obtained in schools of one classification shall not be allocated to schools of another classification. For the purposes of determining such entitlement, classification shall be as follows:

(1) One-teacher schools;

(2) Schools, other than one-teacher schools, with less than one hundred pupils in average daily attendance; and

(3) Schools, other than one-teacher schools, with more than one hundred pupils in average daily attendance.

In the determination of allotments pursuant to KRS 157.360(2), there shall not be allotted a full classroom unit for any non-isolated one-teacher school with fewer than 27 pupils in average daily attendance or for any isolated one-teacher school which has fewer than 12 pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1977-78	1978-79	1979-80
Vocational Education	2,732	2,907	3,082
Exceptional Children	3,810	4,010	4,410
Gifted	---	100	200
Kindergarten	600	1,000	1,550

Provided, however, that if the budgeted units in any category of classroom units; Vocational Education, Exceptional Children, Kindergarten, and classroom units for elementary and secondary schools; with the exception of Gifted, prove to be excessive, the surplus not to exceed (100) such classroom units may be reallocated to any other category or categories by the Superintendent of Public Instruction, upon the approval of the State Board for Elementary and Secondary Education, the Secretary of the Executive Department for Finance and Administration, and the Governor.

Gifted units shall be certified and distributed by the Bureau of Instruction as part of an experimental program.

In the event the total number of Vocational Contract units for pupils attending state vocational-technical schools or state-operated vocational education centers falls short of the projected 650 units in the 1978-79 school year or 625 units in the 1979-80 school year, the Superintendent of Public Instruction is hereby authorized, with written approval of the Secretary of the Executive Department for Finance and Administration, to transfer funds from the School Foundation Program appropriation to the Bureau of Vocational Education for the purpose of supporting vocational education programs for the Kentucky public school system. In no event, however, shall the funds authorized to be transferred under this authority exceed the unit value difference between the actual contract units and 650 in the 1978-79 school year and the unit value difference between the actual contract units and 625 in the 1979-80 school year, provided that nothing herein shall jeopardize the School Foundation Program funding of the public common schools.

Allotments for classroom units pursuant to KRS 157.360(7) shall only be for those personnel enumerated under said section who are qualified for their respective positions under applicable provisions of law and regulations and who maintain programs which have been approved pursuant to applicable regulations.

The value for other current expenses in the 1977-78 school year through the School Foundation Program shall increase from $2,364 to $2,419 for purposes of allotting a one-time grant to local school districts to defray energy related expenses. The amount to be included in the Foundation Program for other current expenses in the 1978-80 biennium shall be determined by multiplying the number of classroom units by: $2,650 in the 1978-79 school year and $2,950 in the 1979-80 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,800 in the 1978-79 school year and $1,800 in the 1979-80 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior appoval of the Superintendent of Public Instruction. The State Board for Elementary and Secondary Education may adopt regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units pursuant to KRS 157.400 and applicable regulations.

Notwithstanding the provisions of KRS 157.400, any undistributed balance in the Foundation Program fund at the end of the fiscal year 1978-79 and 1979-80 shall lapse to the General Fund except where provisions to the contrary are provided in this Act. No unexpended portions of the School Foundation Program fund shall be expended at any time for the purpose of KRS 156.610 through 156.650 except as identified in this Act.

The total appropriation for the School Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Secretary of the Executive Department for Finance and Administration, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase, of the total appropriation to the Foundation Program is subject to Part V, General Provisions, Section 7, of this Act, and the provisions of KRS 45.160.

d. Power Equalization

1978-79	$ 21,000,000
1979-80	$ 31,500,000

Funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with KRS 157.545— 157.575.

e. Instruction

1978-79	$ 9,554,100
1979-80	$ 11,106,500

Included in the above appropriation is $7,728,500 in fiscal year 1978-79 and $9,386,300 in fiscal year 1979-80 for the purchase of free textbooks in public schools.

f. Administration and Finance for Local School Systems

1978-79	$ 1,171,100
1979-80	$ 1,226,000

g. Out-of-District Children

1978-79	$ 550,400
1979-80	$ 697,400

Any unexpended balance at the close of the 1977-78 fiscal year shall not lapse, but shall continue into the 1978-79 fiscal year. Also, any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1979-80 fiscal year.

For reimbursement to local school districts for programs provided in accordance with KRS 158.135 and applicable regulations. Provided, however, that if sufficient funds are not available to reimburse each district for the total cost of the services, each allocation shall be reduced in accordance with Part V, General Provisions, Section 7 of this Act.

h. Teacher Life Insurance

1978-79	$ 776,300
1979-80	$ 766,200

For providing life insurance to each full-time certificated and non-certificated employee of local boards of education.

i. Committee for School District Audits

1978-79	$ 227,100
1979-80	$ 244,500

j. Replacement of Student Fees

1978-79	$ 12,610,000
1979-80	$ 12,740,000

To be distributed to local school districts in accordance with appropriate administrative regulations to be promulgated by the Department of Education, for the abolishment of student fees. Twenty-five percent of each such allotment to local school districts shall be used for purchasing instructional materials.

k. Teacher Health Insurance

1978-79	$ 17,183,900
1979-80	$ 15,850,200

Funds are provided for the purchase of medical insurance for certificated and non-certificated full-time employees of local boards of education pursuant to applicable statutes and regulations. If the cost for life insurance or health insurance exceeds the level of appropriated funds in either of these categories, any unexpended School Foundation Program funds may be used to offset such expenditures, subject to the approval of the Secretary of the Executive Department for Finance and Administration.

l. State School Lunch Assistance

1978-79	$ 3,407,300
1979-80	$ 3,560,000

m. Vocational Education

1977-78	$ 1,000,000
1978-79	$ 31,721,600
1979-80	$ 35,231,300

Any unexpended balance at the close of the 1977-78 fiscal year shall not lapse, but shall continue into the 1978-79 fiscal year. Also, any unexpended balance at the close of the 1978-79 fiscal year shall not lapse, but shall continue into the 1978-79 fiscal year, if in the determination of the Superintendent of Public Instruction and the Secretary of the Executive Department for Finance and Administration they are necessary for the continued operation of vocational education facilities.

n. Rehabilitation Services

1978-79	$ 2,934,600
1979-80	$ 3,384,900

TOTAL - DEPARTMENT OF EDUCATION

1977-78	$ 1,438,000
1978-79	$704,275,300
1979-80	$798,138,500

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42. KENTUCKY EDUCATIONAL TELEVISION

1978-79	$ 6,146,400
1979-80	$ 6,386,000

Included in the above appropriation is $614,650 in fiscal year 1978-79 and $612,750 in fiscal year 1979-80 for debt service.

43.HERITAGE COMMISSION

1978-79	$ 831,000
1979-80	$ 831,000

44.HISTORICAL SOCIETY

1978-79	$ 1,018,700
1979-80	$ 1,078,200

45.DEPARTMENT OF LIBRARY AND ARCHIVES

1978-79	$ 5,438,600
1979-80	$ 5,590,900

46.BUREAU FOR THE BLIND

1978-79	$ 589,700
1979-80	$ 605,400

Included in the above appropriation is $297,300 in fiscal year 1978-79 and $313,000 in fiscal year 1979-80 for Kentucky Industries for the Blind.

47.ADVISORY COUNCIL FOR VOCATIONAL EDUCATION

1978-79	$ 11,200
1979-80	$ 11,200

TOTAL - EDUCATION AND ARTS

1977-78	$ 1,438,000
1978-79	$719,385,300
1979-80	$813,788,300

48.TEACHERS' RETIREMENT SYSTEM

1978-79	$ 68,576,300
1979-80	$ 85,810,000

For administering and complying with the obligations of the state under the Teachers' Retirement Act as provided in KRS 161.220 through 161.710.

49.COUNCIL ON HIGHER EDUCATION

1978-79	$ 8,056,100
1979-80	$ 8,298,700

Included in the $8,056,100 appropriation for the 1978-79 fiscal year is $1,374,100 for General Administration and Support activities; $1,290,900 for Statewide Operations; $475,000 for Regional Operations; $1,826,500 for the Area Health Education System; and $3,089,600 for the Institutional Pools.

Included in the $8,298,700 appropriation for fiscal year 1979-80 is $1,429,300 for General Administration and Support; $1,403,300 for Statewide Operations; $550,000 for Regional Operations; $1,826,500 for the Area Health Education System; and $3,089,600 for the Institutional Pools.

In fiscal year 1978-79, $2,500,000 and in fiscal year 1979-80, $2,500,000 is appropriated to the Council on Higher Education for allocation to the institutions of public higher education for undergraduate enrollment growth and program development. Any distribution of the funds for enrollment growth purposes shall be computed based upon the following factors.

1.The Council on Higher Education shall submit to Office for Policy and Management, Executive Department for Finance and Administration, on or before July 1 for the fiscal year for which the appropriation is available, all cost data, computations, and recommendations for distributing the funds for enrollment growth.

2.Recommendations to the Office for Policy and Management for allotment purposes shall be based upon the projected fall undergraduate credit hour production for the fiscal year in which the appropriation is available with a computation of the full time equivalent enrollments and credit hour production in the undergraduate programs for the two preceding fall and spring semesters.

3.The Council on Higher Education shall also furnish the Office for Policy and Management computations which reflect the total actual cost per credit hour and the amount of that cost which is supported by the state appropriation for the latest fiscal year that the data can be obtained. In furnishing such information the Council on Higher Education shall identify separately data regarding the University of Kentucky Community College system.

4.There is hereby established for calculation and distribution purposes an enrollment growth pool base year. This base year shall be defined as the level of undergraduate enrollments for the fall semester 1975 as calculated by the Council on Higher Education and utilized for distribution purposes in fiscal year 1976-77.

5.Enrollment growth computations after fiscal year 1975-76 shall be expressed as factors of this base. Allocations for enrollment increases over this base shall be reduced by allotments already received since the establishment of the base, except that any allotment for this purpose, for a preceeding year shall not be reduced.

6.The amount to be distributed to each institution shall be based upon the analysis of cost as determined by the Council and projected growth, if any, in the number of undergraduate credit hours to be produced.

7.Institutions receiving enrollment growth funds in 1978-79 and 1979-80 based upon projected increases, which do not attain the projected levels will have that portion of the funds returned to the Council on Higher Education prior to April 1, 1979, and April 1, 1980.

Also, included in the Institutional Pools program is $589,600 each year of the biennium for the purposes of upgrading faculty salary levels at the regional universities and the community colleges. The distribution is to be effected prior to August 1, 1978 pending a review by the Council of the institutions faculty, salary levels, and subsequent recommendation to the Office for Policy and Management.

50.HIGHER EDUCATION ASSISTANCE AUTHORITY

1978-79	$ 4,050,000
1979-80	$ 3,900,000

In fiscal year 1978-79 and 1979-80 $2,000,000 is appropriated for the State Student Incentive Grant Program. The Kentucky Tuition Grant Program is appropriated $1,900,000 in fiscal year 1978-79 and $1,900,000 in fiscal year 1979-80. Also, $150,000 is appropriated in fiscal year 1978-79 for the Commonwealth Work/Study program.

51.UNIVERSITY OF KENTUCKY

1977-78	$ 625,300
1978-79	$111,722,000
1979-80	$122,721,700

52.UNIVERSITY OF LOUISVILLE

1978-79	$ 52,686,100
1979-80	$ 61,371,200

53.EASTERN KENTUCKY UNIVERSITY

1978-79	$ 25,794,600
1979-80	$ 27,780,400

54.WESTERN KENTUCKY UNIVERSITY

1978-79	$ 24,654,700
1979-80	$ 26,356,500

55.MOREHEAD STATE UNIVERSITY

1978-79	$ 15,799,400
1979-80	$ 16,953,900

56.MURRAY STATE UNIVERSITY

1977-78	$ 66,600
1978-79	$ 19,107,700
1979-80	$ 20,874,900

57.KENTUCKY STATE UNIVERSITY

1977-78	$ 266,900
1978-79	$ 7,567,500
1979-80	$ 8,587,600

58.NORTHERN KENTUCKY UNIVERSITY

1978-79	$ 13,334,800

1979-80	$ 14,400,300

TOTAL - HIGHER EDUCATION

1977-78	$ 958,800
1978-79	$282,772,900
1979-80	$311,245,200

D. HUMAN RESOURCES

59. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1. Administration

1977-78	$ 22,076,100
1978-79	$ 22,415,600
1979-80	$ 23,776,100

In the event that any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the bureau, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program. Notwithstanding KRS 45.235, any unexpended balance not used for Public Assistance Benefits remaining at the close of the 1978-79 fiscal year shall lapse.

2. Benefits

1977-78	$116,783,600
1978-79	$128,664,100
1979-80	$145,091,800

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Bureau for Social Insurance. No portion of this appropriation may be used for the costs of administration except with the prior written approval of the Governor. In no instance shall the unexpended balance carried forward, as provided by KRS 45.235, or any portion thereof be used, without the prior written approval of the Governor, to:

1. establish a new program,

2. expand the services of an existing program,

3. increase rates or payment levels in an existing program.

All medical assistance vendor statements for services rendered as a result of bona fide claims for medical care may be paid in the fiscal year in which such statements are received by the paying agency.

b. Bureau for Manpower Services

1977-78	$ 580,000
1978-79	$ 580,000
1979-80	$ 580,000

c. Bureau for Health Services

1977-78	$ 56,988,300
1978-79	$ 66,987,700
1979-80	$ 74,029,800

d. Bureau for Social Services

1977-78	$ 22,823,400
1978-79	$ 26,439,900
1979-80	$ 28,567,100

e. Executive Policy Support

1977-78	$ 8,514,000
1978-79	$ 9,416,700
1979-80	$ 9,352,700

TOTAL— HUMAN RESOURCES

1977-78	$227,765,400
1978-79	$254,504,000
1979-80	$281,397,500

E. JUDICIARY

60. JUDICIARY

a. Court Operation and Administration

1977-78	$ 2,230,700
1978-79	$ 33,494,600
1979-80	$ 35,259,400

To be used for the purposes of the Supreme Court, Court of Appeals, Circuit Court, District Court, Clerk of Supreme Court, Court Administrators, the Administrative Office of the Court, Pretrial Release, Judicial Boards and Commissions, Judicial Retirement, and for services performed by the Circuit Clerk offices, including both circuit and district court support. The specific allocation of clerk personnel and operating expenses shall be made by the Administrative Office of the Court of Justice, based on the statewide need.

b.
Local Facility Support

1978-79	$ 3,586,500
1979-80	$ 4,873,000

To be used to secure court facilities to support the Unified Court of Justice system.

TOTAL— JUDICIARY

1977-78	$ 2,230,700
1978-79	$ 37,081,100
1979-80	$ 40,132,400

F. JUSTICE

61. DEPARTMENT OF JUSTICE

a. Bureau of Training

1978-79	$ 1,611,000
1979-80	$ 1,637,500

b. Bureau of Corrections

1978-79	$ 26,403,100
1979-80	$ 28,762,900

c. Bureau of State Police

1978-79	$ 36,942,900
1979-80	$ 39,219,300

Any extraordinary expenditures of funds as a result of the Governor's call of the Kentucky State Police to extraordinary duty is hereby declared to be a necessary governmental expense provided, however, that an emergency situation shall have been declared to exist by the Governor.

d. Public Defender

1978-79	$ 2,812,700
1979-80	$ 2,964,900

e. Justice Administration

1978-79	$ 2,432,200
1979-80	$ 2,484,100

TOTAL— DEPARTMENT OF JUSTICE

1978-79	$ 70,201,900
1979-80	$ 75,068,700

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

62. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

a. Bureau for Natural Resources

1978-79	$ 8,226,000
1979-80	$ 8,415,800

Not less than $60,000 of the appropriation for each fiscal year shall be set aside for emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby declared to be a necessary governmental expense; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Bureau for Environmental Protection

1978-79	$ 5,458,000
1979-80	$ 5,543,400

c. Bureau for Surface Mining Reclamation and Enforcement

1977-78	$ 200,000
1978-79	$ 3,867,400
1979-80	$ 4,193,100

d. General Administration and Support

1978-79	$ 1,724,700
1979-80	$ 1,797,100

TOTAL - DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1977-78	$ 200,000
1978-79	$ 19,276,100
1979-80	$ 19,949,400

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63. ENVIRONMENTAL QUALITY COMMISSION

1978-79	$ 47,500
1979-80	$ 47,500

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64. KENTUCKY NATURE PRESERVES COMMISSION

1978-79	$ 97,400
1979-80	$ 104,100

TOTAL— NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1977-78	$ 200,000
1978-79	$ 19,421,000
1979-80	$ 20,101,000

H. PUBLIC PROTECTION AND REGULATION

65. OFFICE OF THE SECRETARY

1978-79	$ 168,700
1979-80	$ 177,600

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66. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1978-79	$ 846,300
1979-80	$ 890,600

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67. DEPARTMENT OF BANKING AND SECURITIES

1978-79	$ 1,602,600
1979-80	$ 1,679,800

Notwithstanding the provision of KRS 47.130, receipts collected by the Department shall be paid into the General Fund.

68. BOARD OF TAX APPEALS

1978-79	$ 118,300
1979-80	$ 121,300

69. DEPARTMENT OF INSURANCE

1977-78	$ 500,000
1978-79	$ 4,133,800
1979-80	$ 4,260,800

Included in the above appropriation is $500,000 in fiscal year 1977-78 for the operations of the State Fire Marshal's Office.

70. DEPARTMENT OF LABOR

1978-79	$ 1,183,700
1979-80	$ 1,204,400

71. REGISTRY OF ELECTION FINANCE

1978-79	$ 180,500
1979-80	$ 189,500

72. DEPARTMENT OF MINES AND MINERALS

1978-79	$ 4,080,900
1979-80	$ 3,885,400

73. PUBLIC SERVICE COMMISSION

1977-78	$ 288,500
1978-79	$ 2,342,600
1979-80	$ 2,414,100

74. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

1978-79	$ 81,000
1979-80	$ 84,000

75. KENTUCKY STATE RACING COMMISSION

1978-79	$ 444,200
1979-80	$ 501,800

76. KENTUCKY HARNESS RACING COMMISSION

1978-79	$ 312,300
1979-80	$ 330,900

TOTAL— PUBLIC PROTECTION AND REGULATION

1977-78	$ 788,500
1978-79	$ 15,494,900
1979-80	$ 15,740,200

I. TRANSPORTATION

77. DEPARTMENT OF TRANSPORTATION

a. Air Transportation

1978-79	$ 2,473,400
1979-80	$ 2,898,300

Included in the above appropriation is $2,080,300 in fiscal year 1978-79 and $2,498,700 in fiscal year 1979-80 for the Airport Development Fund. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

b. Water Transportation

1978-79	$ 965,000
1979-80	$ 1,009,500

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

c. Rail Transportation

1978-79	$ 476,000
1979-80	$ 776,000

Included in the above appropriation is $420,000 in fiscal year 1978-79 and $720,000 in fiscal year 1979-80 for the purpose of establishing a Railroad Development program. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

d. Public Transportation

1978-79	$ 703,400
1979-80	$ 703,400

Included in the above appropriation is $500,000 each fiscal year for the purchase of general municipal transportation vehicles. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

e. General Administration and Support

1978-79	$ 455,900
1979-80	$ 455,900

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

f. Highways

1) Bureau of Vehicle Regulation

(Except Division of Water Enforcement)

1978-79	$ 3,824,600
1979-80	$ 4,014,500

The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

2) Energy Road Fund

1978-79	$ 13,000,000
1979-80	$ 13,000,000

These funds are appropriated to the Energy Road Fund. This fund shall be used for the construction or reconstruction, repair and maintenance of any public highway, road, street or bridge in "coal producing counties" as defined by law. The total General Fund appropriation stated above may be transferred for administrative purposes to the Transportation Fund for allotment and expenditure.

TOTAL— DEPARTMENT OF TRANSPORTATION

1978-79	$ 21,898,300
1979-80	$ 22,857,600

PART II
TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1979, and for the fiscal year ending June 30, 1980, all of the fees (which include fees for board and room, athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, Federal grants and other Federal funds received, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Goverment, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received are appropriated and shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, and 45.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1978-79 or fiscal year 1979-80 and any balance forwarded to the credit of any such account from the previous fiscal year exceed the appropriation made by specific sum to said account for the fiscal year in which the excess occurs; provided, however, that with the exception of Federal grants and other Federal funds received, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the Executive Director of the Office for Policy and Management upon approval of the Secretary of the Executive Department for Finance and Administration.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Executive Department for Finance and Administration, during the fiscal year ending June 30, 1979, and during the fiscal year ending June 30, 1980, all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Executive Department for Finance and Administration. On or before the beginning of each fiscal year, each agency shall submit to the Executive Department for Finance and Administration schedules showing estimated receipts and estimated expenditures by quarterly period.

A. GENERAL GOVERNMENT

1. AUDITOR OF PUBLIC ACCOUNTS

2. SECRETARY OF STATE

Notwithstanding the provisions of KRS 271A.625, KRS 271A.630, KRS 271A.635, and KRS 56.300; all the operating receipts from all activities of the office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

3. CAPITAL PLAZA

a. Commercial Area

1978-79	$ 104,000
1979-80	$ 99,000

b. Recreation and Entertainment Facilities

1978-79	$ 115,400
1979-80	$ 120,500

c. Debt Service

4. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

All funds received under the federal Public Works Employment Act of 1976, Title II, Public Law 94-369 as amended by Title VI of Public Law 95-30 and as subsequently reenacted or amended are hereby appropriated to the Executive Department for Finance and Administration to be used for the maintenance of basic services in and among the various agencies, cabinets, and departments of state government. Any portion of these funds may be transferred to other major program areas or agencies of state government for the purpose of continuing basic services; provided, however, that such transfers shall be used to reduce General Fund appropriations and shall not in any way increase the expenditure level authorized by the General Assembly.

5. KENTUCKY RETIREMENT SYSTEMS

6. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

		1978-79	1979-80
a.	Board of Accountancy	$ 94,800	$124,900
b.	Board of Architects	$ 52,000	$ 53,100
c.	Board of Auctioneers	$ 48,700	$ 48,700
d.	Board of Barbers	$105,200	$111,700
e.	Board of Chiropractic Examiners	$ 36,000	$ 39,000
f.	Board of Dental Examiners	$ 79,000	$ 83,700
g.	Board of Embalmers and Funeral Directors	$ 43,800	$ 51,600
h.	Board of Engineers and Land Surveyors	$125,400	$128,800
i.	Board of Hairdressers and Cosmetologists	$311,400	$297,500
j.	Board of Hearing Aid Dealers	$ 8,500	$ 8,200
k.	Board of Landscape Architecture	$ 8,300	$ 8,600
l.	Board of Medical Licensure	$145,500	$145,500
m.	Board of Nurses	$320,100	$335,300
n.	Nursing Home Administrators Licensure Board	$ 24,900	$ 25,500
o.	Board of Ophthalmic Dispensers	$ 6,200	$ 6,300
p.	Board of Optometric Examiners	$ 18,400	$ 18,400
q.	Board of Pharmacy	$163,600	$171,600
r.	Board of Physical Therapy	$ 13,600	$ 15,000
s.	Board of Podiatry	$ 2,500	$ 2,500
t.	Board of Proprietary Education	$ 41,400	$ 44,300
u.	Board of Psychology	$ 17,000	$ 16,700
v.	Real Estate Commission		
	1. Examination and Licensing	$266,800	$277,800
	2. Real Estate Education Research and Recovery	$349,500	$357,500
w.	Board of Social Workers	$ 40,300	$ 42,100
x.	Board of Speech Pathologists and Audiologists	$ 6,900	$ 6,500
y.	Board of Veterinary Examiners	$ 18,600	$ 18,600
z.	Board of Watchmaking	$ 9,300	$ 9,300

7. DEPARTMENT OF PERSONNEL

8. DEPARTMENT OF REVENUE

9. COUNTY FEES

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, and Daviess are for paying the various officials of each county enumerated, seventy-five percent (75 percent) of the fees provided by law to be paid, by the State, to these officials when their claims for fees have been presented to the Executive Department for Finance and Administration in the form and manner prescribed by law and approved by the Secretary of the Executive Department for Finance and Administration, and to pay the Fiscal Court of each of said counties twenty-five percent (25 percent) of said fees as required by KRS 64.350.

10.MILITARY AFFAIRS	
11.DEPARTMENT OF LAW	
a. Uninsured Employers Fund	
1978-79	$ 331,000
1979-80	$ 354,500
b. Anti-Trust Unit	
1978-79	$ 124,000
1979-80	$ 32,500
12.KENTUCKY HORSE COUNCIL	
13.BOARD OF ELECTIONS	
1978-79	$ 25,000
1979-80	$ 25,000
14.DEPARTMENT FOR LOCAL GOVERNMENT	
B. DEVELOPMENT	
15.	
OFFICE OF THE SECRETARY	
1978-79	$ 150,000
1979-80	$ 150,000
16.DEPARTMENT OF PARKS	
1978-79	$ 20,162,400
1979-80	$ 21,937,000
17.DEPARTMENT OF AGRICULTURE	
1978-79	$ 1,881,000
1979-80	$ 1,910,800
18.DEPARTMENT OF FISH AND WILDLIFE	
19.DEPARTMENT OF COMMERCE	
1978-79	$ 460,000
1979-80	$ 354,000
20.STATE FAIR BOARD	
1978-79	$ 7,457,200
1979-80	$ 7,396,000
1978-79	$ 1,667,900
1979-80	$ 445,300
21.KENTUCKY CENTER FOR ENERGY RESEARCH	
1978-79	$ 1,303,400
1979-80	$ 851,000
22.KENTUCKY INDUSTRIAL DEVELOPMENT FINANCE AUTHORITY	
1978-79	$ 2,192,800
1979-80	$ 2,126,400
23.DEPARTMENT OF ENERGY	
C. EDUCATION	
24.ADVISORY COUNCIL FOR VOCATIONAL EDUCATION	
25.OFFICE OF THE SECRETARY	
26.ARTS COMMISSION	
27.DEPARTMENT OF EDUCATION	

a. General Administration and Support Services

b. Education for Exceptional Children

1978-79	$ 5,414,200
1979-80	$ 7,901,900

c. Instruction

1978-79	$ 45,000,000
1979-80	$ 45,000,000

d. Administration and Finance for Local School Systems

1978-79	$ 969,000
1979-80	$ 943,400

e. Vocational Education

1978-79	$ 28,000,000
1979-80	$ 28,000,000

f. Vocational Rehabilitation

1978-79	$ 15,000,000
1979-80	$ 16,000,000

28. KENTUCKY EDUCATIONAL TELEVISION

29. HERITAGE COMMISSION

30. HISTORICAL SOCIETY

31. DEPARTMENT OF LIBRARY AND ARCHIVES

32. BUREAU FOR THE BLIND

33. TEACHERS' RETIREMENT SYSTEM

34. COUNCIL ON HIGHER EDUCATION

1978-79	$ 316,700
1979-80	$ 297,100

35. HIGHER EDUCATION ASSISTANCE AUTHORITY

Those fund balances in the student loan program may with the approval of the Office for Policy and Management be expended for loans, loan reserves, and other purposes related to the Authority's implementation of the state insured loan program.

36. UNIVERSITY OF KENTUCKY

37. UNIVERSITY OF LOUISVILLE

38. EASTERN KENTUCKY UNIVERSITY

39. WESTERN KENTUCKY UNIVERSITY

40. MOREHEAD STATE UNIVERSITY

41. MURRAY STATE UNIVERSITY

42. KENTUCKY STATE UNIVERSITY

43. NORTHERN KENTUCKY UNIVERSITY

D. HUMAN RESOURCES

44. DEPARTMENT FOR HUMAN RESOURCES

a. Bureau for Social Insurance

1978-79	$420,464,600
1979-80	$436,745,600

b. Bureau for Manpower Services		
	1978-79	$ 58,329,000
	1979-80	$ 54,415,400
c. Bureau for Health Services		
	1978-79	$ 56,751,900
	1979-80	$ 59,887,300
d. Bureau for Social Services		
	1978-79	$ 59,725,000
	1979-80	$ 61,755,800
e. Executive Policy Support		
	1978-79	$ 16,906,900
	1979-80	$ 18,652,600

E. JUDICIARY

45. JUDICIARY		
	1978-79	$ 973,600
	1979-80	$ 974,300

F. JUSTICE

46. DEPARTMENT OF JUSTICE		
a. Bureau of Training		
	1978-79	$ 125,500
	1979-80	$ 132,100
b. Bureau of Corrections		
	1978-79	$ 2,164,800
	1979-80	$ 1,987,600
c. Bureau of State Police		
	1978-79	$ 777,000
	1979-80	$ 450,000
d. Public Defender		
	1978-79	$ 50,700
	1979-80	$ 29,500
e. Justice Administration		
	1978-79	$ 6,421,300
	1979-80	$ 6,598,700

G. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

47. DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION		
a. Bureau for Natural Resources		
	1978-79	$ 485,000
	1979-80	$ 485,000
b. Bureau for Environmental Protection		
	1978-79	$ 2,657,300
	1979-80	$ 3,455,500
c. General Administration and Support		
	1978-79	$ 325,000
	1979-80	$ 325,000
d. Bureau for Surface Mining Reclamation		

H. PUBLIC PROTECTION AND REGULATION

48. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL		
	1978-79	$ 3,000
	1979-80	$ 3,000

49. DEPARTMENT OF INSURANCE

50. DEPARTMENT OF LABOR

a. Occupational Safety and Health

1978-79	$ 3,574,400
1979-80	$ 3,798,400

b. Special Fund

c. Elevator Safety

1978-79	$ 43,600
1979-80	$ 43,600

d. Workmen's Compensation Board

1978-79	$ 1,906,900
1979-80	$ 1,979,300

For the general operations of the Workmen's Compensation Board and administrative services provided to the Board through the General Administration and Support program.

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51. DEPARTMENT OF MINES AND MINERALS

1978-79	$ 447,800
1979-80	$ 491,000

52. KENTUCKY QUARTER HORSE AND APPALOOSA COMMISSION

53. KENTUCKY STATE RACING COMMISSION

54. KENTUCKY HARNESS RACING COMMISSION

55. PUBLIC SERVICE COMMISSION

I. TRANSPORTATION

56. DEPARTMENT OF TRANSPORTATION

a. Air Transportation

1978-79	$ 5,532,500
1979-80	$ 8,276,200

b. Water Transportation

c. Rail Transportation

d. Mass Transportation

e. General Administration

f. Highways

1) Bureau of Highways

2) Bureau of Vehicle Regulation

1978-79	$ 1,551,500
1979-80	$ 1,570,600

PART III
TRANSPORTATION FUND

Monies in the Transportation Fund are appropriated for use by the Department of Transportation in its activities, functions, and duties performed by it as prescribed by law. The Transportation Fund shall consist of all the state revenues realized from fees, taxes, and license fees levied for state road purposes authorized by law, and any additional or other revenues, grants, or funds, including any amount which may be received from Federal aid, bond funds, General Funds appropriated, or any other sources pursuant to the provisions of KRS 177.030, made available for the construction or reconstruction of public roads or for any other of the activities administered by the Department of Transportation. Such receipts and revenues, and unappropriated surplus, together with any balance as of June 30, 1978, shall constitute the Transportation Fund for the fiscal years 1978-79 and 1979-80 respectively. An annual budget for each fiscal year shall be submitted by the Department of Transportation to the Executive Department for Finance and Administration for approval by June 1, 1978, for fiscal year 1978-79 and by June 1, 1979, for fiscal year 1979-80. The budget shall be based upon the most current State Road Fund estimates and Surplus, estimates of contractual and noncontractual Federal aid, General Fund appropriated, and funds and fees from any other source.

In the event the State Road Fund estimates are revised during the biennium the Department of Transportation shall submit its annual budget based upon the new estimates. These estimates are to be certified by the Commissioner of Revenue to the Secretary of the Executive Department for Finance and Administration and upon the approval of the Governor the Secretary of the Executive Department for Finance and Administration shall make the appropriate increases or decreases to the Department of Transportation's annual budget. If the State Road Fund estimates are increased or decreased during a fiscal year the Department of Transportation shall request from the Executive Department for Finance and Administration with approval of the Governor authority to increase or decrease its annual budget in accordance with Part V, General Provisions, Section 7 of this Act. The following monies are appropriated from the State Road Fund.

A. TRANSPORTATION

1. DEPARTMENT OF TRANSPORTATION

a. General Administration

1978-79	$ 32,494,200
1979-80	$ 33,413,700

b. Highways

1) Bureau of Highways

1978-79	$361,693,500
1979-80	$375,394,000

a) Rural Highways

i.County Road Aid. For construction, reconstruction, improvement, and maintenance of county roads and bridges the designated portion of all revenue received pursuant to KRS 138.220 and 138.565 shall be expended in accordance with KRS 177.320(2). These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360.

ii.Rural Secondary Roads. For construction, reconstruction, and maintenance of rural and secondary roads, the designated portion of all revenue received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended in accordance with KRS 177.320. These funds shall be distributed in accordance with the formula prescribed by the provisions of KRS 177.360. In addition, pursuant to the duties and responsibilities of county judges/executives associated with the administration of the local county road program, beginning January 1, 1978, the expense allowance for each county judge/executive shall be paid from the Transportation Fund. These expenses shall be paid from those appropriated funds for the rural secondary road revenue sharing program as provided in KRS 177.360 and KRS 67.

b) Municipal Aid. For the construction, reconstruction, and maintenance of urban roads, streets, and bridges, the designated amounts received pursuant to the provisions of KRS 138.220 and 138.565, shall be expended and distributed in accordance with KRS 177.365 through 177.368.

2) Bureau of Vehicle Regulation
(Except Division of Water Enforcement)

1978-79	$ 2,642,100
1979-80	$ 3,278,200

Total - Highways

1978-79	$364,335,600
1979-80	$378,672,200

TOTAL - DEPARTMENT OF TRANSPORTATION

1978-79	$396,829,800
1979-80	$412,085,900

PART IV
CAPITAL CONSTRUCTION FUND
A. GENERAL FUND

1. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1977-78	$ 3,087,600
1978-79	$ 3,485,700
1979-80	$ 1,994,700

Monies are appropriated for capital projects among those enumerated in the budget document and among those capital projects previously and partially funded by the 1974 General Assembly and those projects authorized by the 1976 Extraordinary Session, consisting of general construction, renovation, maintenance, improvements, property acquisition, major items of equipment, and administrative costs relating to the design, construction, and supervision of such capital projects, including, but not limited to, reclamation and industrial development projects, dam repair and maintenance, flood damage abatement projects, sewer projects and loans and grants in aid for capital purposes, the provisions of subsection (9) of KRS 45.040 notwithstanding, excluding however consumable and other usable supplies. Those projects set forth in the budget document under the sub-heading "colleges and universities" are subject to substitution upon action of the Council on Higher Education and subject to the approval of the Executive Department for Finance and Administration.

All monies transferred to the Executive Department for Finance and Administration for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Executive Department for Finance and Administration for capital construction.

If at the end of any fiscal year the monies and securities to the credit of the State Fire and Tornado Insurance Fund exceed $2,000,000 and if conditions with respect to life and fire safety in state properties are such as not to require the expenditure of all excess funds for improvements to said conditions, then the

Secretary of the Executive Department for Finance and Administration, with the concurrence of the Commissioner of Insurance, shall determine the amount of such excess not so required and may authorize its transfer to the Capital Construction Fund, for expenditure in accordance with the provisions of Chapter 56 of the Kentucky Revised Statutes.

B. FEDERAL REVENUE SHARING

2. EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION

1978-79	$ 40,000,000
1979-80	$ 41,000,000

These funds are appropriated in accordance with the provisions of the federal State and Local Fiscal Assistance Act of 1972 and extension thereof. In the event these monies, or any portion thereof, are not made available to the Commonwealth, the Secretary of the Executive Department for Finance and Administration shall take appropriate action as required by Part V, General Provisions, Section 7 of this Act.

PART V
GENERAL PROVISIONS

1. Nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1978,except Chapter 27, Part I, Section D of the 1976 Extraordinary Session Acts of the General Assembly which is hereby repealed, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42 and 45 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Executive Department for Finance and Administration. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary for Finance and Administration in accordance with the detailed estimates embodied in the Executive Budget 1978-80 and supporting work papers, as considered by the General Assembly, and the decision of the Secretary of the Executive Department for Finance and Administration shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Secretary of the Executive Department for Finance and Administration is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Department of Personnel, Executive Department for Finance and Administration, Treasury, and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs.

4. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act, notwithstanding any provisions of the Kentucky Revised Statutes to the contrary, except as provided by Chapters 12, 42, 56, 152, 177 and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed.

5. No state agency, cabinet, department, office or program shall incur any obligation against the General Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the Governor's budget proposal and is supported by appropriate work papers and other records pertaining thereto.

6. Any appropriation made herein by the General Fund in anticipation of loss or reduction of Federal grants shall lapse to the General Fund to the extent such Federal funds otherwise become available.

7. Whereas, inasmuch as the finances of the Commonwealth cannot be ascertained with absolute certainty at this time, and since the actual needs of each officer, cabinet, department, board, commission, institution, agency or other activity or subdivision of state government can only be anticipated and not finally determined by the General Assembly, and since the total amount of revenue accruing to the General Fund and to the Transportation Fund and accruing from various fees or from Federal funds from which appropriations are made can only be anticipated as being produced through existing laws and those that may hereafter be enacted, and recognizing the complex nature of the economy, it is the purpose and intention of this Act that the expenditures for each fiscal year shall not exceed the total financial resources accruing to any Fund, as defined in KRS Chapter 45, for the same fiscal year. As the conditions cannot be fully determined until after

the adjournment of the 1978 General Assembly, and as the needs of each officer, cabinet, department, board, agency, commission, institution, subdivision or activity of state government, together with the total financial resources accruing to the General Fund and the Transportation Fund cannot be fully determined at this time, it is the intention and purpose of this General Assembly that the Secretary of the Executive Department for Finance and Administration, with the advice of the Commissioner of the Department of Revenue, upon approval of the Governor of the Commonwealth, is authorized, empowered and directed to ascertain and determine the needs of each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government and to ascertain the total financial resources anticipated to be accrued to the General Fund and the Transportation Fund of the Commonwealth, and upon the ascertainment and determination of said facts, he, the Secretary of the Executive Department for Finance and Administration, in the manner set forth as provided by general law, is authorized, empowered, and directed by the General Assembly to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, according to needs, without discrimination, the appropriations herein made from the General Fund and Transportation Fund to each officer, cabinet, department, board, commission, institution, subdivision, agency or other activity in state government, provided, however, that the power invested shall not permit any reduction of the appropriations of any officer, cabinet, department, board, commission, institution, subdivision, agency or other activity of state government that will actually impair the necessary constitutional functions of such agency or activity, the operations and functions of which are determined to be necessary constitutional functions of state government.

HB 216, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.370 is amended to read as follows:

(1) [Effective December 1, 1969] There shall be a property valuation administrator in each county in lieu of a county assessor.

(2) Property valuation administrators shall be elected in the year *in which county elections are held* [1969 and each four (4) years thereafter] and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by section 100 of the constitution and by KRS 132.380 and shall be eligible for re-election.

(3) *The property valuation administrators and all deputies and assistants of their offices who qualify as full time employes, shall be eligible for participation in the provisions of KRS 18.410, 18.510 through 18.600 and 61.510 through 61.700.*

(4) A property valuation administrator may be removed from office by the circuit court of his county, upon petition of the department or any taxpayer, for wilful disobedience of any just or legal order of the department, or for misfeasance or malfeasance in office or wilful neglect in the discharge of his official duties, but he or the petitioner may appeal to the Court of Appeals.

Section 2. KRS 132.450 is amended to read as follows:

(1) Each property valuation administrator shall assess at its fair cash value all property which it is his duty to assess except as provided in paragraph (g) of subsection (2) of this section. In the case of securities which are regularly bought and sold through stock exchanges, the price at which such property closed on the last regular business day preceding the assessment day shall be prima facie evidence of the fair cash value of such property. The property of one (1) person shall not be assessed wilfully or intentionally at a lower or higher relative value than the same class of property of another, and any grossly discriminatory valuation shall be construed as an intentional discrimination. The property valuation administrator shall make every effort, through visits with the taxpayer, personal inspection of the property, from records, from his own knowledge, from information in property schedules, and from such other evidence as he may be able to obtain, to locate, identify, and assess property.

(2)(a) On or before April 1 of any year the owner or owners of land devoted exclusively to agricultural or horticultural use on which the property valuation administrator has placed a value in excess of the agricultural or horticultural value may file application for valuation at the agricultural or horticultural value with the property valuation administrator of the county in which the land is located, on forms prescribed by the department. This application shall be valid until the property is transferred or the land use is changed; however, the owner may elect to have the subject property assessed as other than agricultural or horticultural land for any year or years by filing a statement to that effect with the property valuation administrator prior to the close of the five (5) day period beginning on the first Monday in June. In determining the total area of such land, there shall be included the area of all land under farm buildings, greenhouses and like structures, lakes, ponds, streams, irrigation ditches and similar facilities, and garden plots devoted to growth of products for on-farm personal consumption but there shall be excluded, land used in connection with dwelling houses including, but not limited to, lawns, drives, flower gardens, swimming pools or other areas devoted to family recreation. Where contiguous land in agricultural or horticultural use in one (1) ownership is located in more than one county or taxing district, compliance with the minimum requirements shall be determined on the basis of the total area and income of such land and not the area or income of land which is located in the particular county or taxing district.

(b) Land devoted to agricultural or horticultural use, where the owner or owners have petitioned for, and been granted, a zoning classification other than for agricultural or horticultural purposes is excluded from the provisions of paragraph (g) of this subsection.

(c) Real property devoted to agricultural or horticultural use by any corporation other than one organized primarily for agricultural or horticultural purposes is excluded from the provisions of paragraph (g) of this subsection.

(d) When the use of a part of a tract of land which is valued and taxed as agricultural or horticultural land is changed either by conveyance or other action of the owner, the right of the remaining land to be retained in the agricultural or horticultural classification for assessment and taxation shall not be impaired provided it meets the minimum requirements for such classification, except that land on which there has been established a systematic pattern of change of use over a period of two (2) years is excluded from the provisions of paragraph (g) of this subsection.

(e) The owner or owners of land shall not be liable for deferred taxes for any year in which the land was not assessed for agricultural or horticultural use under the provisions of paragraph (g) of this subsection.

(f) Where a change in land use occurs in any tax year the owner of such land shall be subject to the deferred tax provisions of subsection (1) of KRS 132.454 for each of the preceding two (2) tax years in which the land was valued and taxed for agricultural or horticultural purposes.

(g) When in the opinion of the property valuation administrator any land on which an application has been filed, has a value in excess of that for agricultural or horticultural use the property valuation administrator shall enter into the tax records the value of the property according to its fair cash value. When the property valuation administrator determines that the land meets the requirements for valuation as agricultural or horticultural land, the valuation for tax purposes shall be its agricultural or horticultural value.

(h) When an application for valuation of property as agricultural or horticultural is denied, the property valuation administrator shall cause written notice to be served on the property owner in the manner provided by subsection (4) of this section. The property owner may appeal such ruling to the county board of assessment appeals as provided in KRS 133.120 or in the case of a city or special district to the appropriate appeals body for the city or district.

(3) Notwithstanding any statutory provisions to the contrary, the provisions of this section and KRS 132.454 shall apply to the assessment and taxation of agricultural or horticultural land for state, county, city or special district purposes. Any city may by ordinance establish additional tax procedures which will enable it effectively to administer the provisions of this section and KRS 132.454.

(4) If the property valuation administrator assesses any property, except stocks and bonds at the market value listed in recognized publications, *and except as provided in KRS 132.660,* at a greater value than *(a)*that listed by the taxpayer *for the current year, (b)that at which the property was assessed for the prior year* or *(c)* assesses [unlisted] property *not previously listed on the tax rolls*, the property valuation administrator shall serve notice on the taxpayer of such action *on a form prescribed by the department of revenue*. The notice shall *contain a statement of the taxpayers right of appeal and* be given by first-class mail or as provided in the Kentucky Rules of Civil Procedure. *If county funds are not sufficient, funds to pay the cost of notice shall be paid from state funds as a necessary governmental expense.*

(5) Any taxpayer may designate on the property schedule any property which he does not consider to be subject to taxation, and it shall be the duty of the property valuation administrator to obtain and follow advice from the department relative to the taxability of such property.

Section 3. KRS 132.460 is amended to read as follows:

The property valuation administrator, *or an authorized deputy,* shall attend all hearings before the county board of assessment appeals and before the Kentucky board of tax appeals relative to his assessment and submit to examination and fully disclose to them such information as he may have and any other matters pertinent to the inquiry being made. He shall be entitled to reimbursement from the county for expenses incurred in official business outside his county. If the department of revenue directs him to perform official duties outside of his county, the expenses shall be paid from the appropriation for the payment of the salaries of the property valuation administrators. Such reimbursement shall be paid on the same basis as employes of the commonwealth are paid for travel expenses.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

Effective January 1, 1979, the department of transportation shall, by April 1 of each year, provide the department of revenue with a listing of all owners of motor vehicles registered in Kentucky on an anniversary basis under KRS 186.051 as of the preceding January 1. Such listing shall be by counties and shall contain, in addition to the name of the owners, the owner's address, and the make, model and year of all vehicles owned by the registrants. The county clerk shall continue to provide copies of motor vehicle registration certificates on all motor vehicles not registered under the provisions of KRS 186.051.

Section 5. KRS 235.050 is amended to read as follows:

(1) Except as otherwise provided in this chapter, before the owner or operator of each motorboat required to be registered and numbered by KRS 235.040 may operate it or permit its operation upon the waters of this state, the owner shall apply for registration to the circuit court clerk of the county in which he resides, except, if the motorboat is to be operated principally in a county other than the county of the owner's residence the owner may apply for registration to the circuit court clerk of the county in which the motorboat is to be principally operated. A motorboat last registered in another state and purchased by a person for operation in this state shall be first registered in this state by and in the name of the purchaser and not in the name of the seller. The application shall be in *quadruplicate* [triplicate] with one copy to be retained by the circuit court clerk, one copy to be forwarded to the division of driver licensing, *one (1) copy to be forwarded to the county property valuation admnistrator,* and the original to constitute a temporary registration certificate valid for not more than ninety days and to be destroyed upon receipt of the permanent certified certificate. The application shall be accompanied by:

(a) A bill of sale, if the application is for registration of a new motorboat; or
(b) The owner's registration receipt if the motorboat was last registered in this state; or
(c) A bill of sale and the previous registration receipt if last registered in another state; and
(d) The annual registration fee.

(2) Motorboats shall be registered annually.

Section 6. KRS 235.070 is amended to read as follows:

(1) Every person seeking a license or certificate of number or renewal for operation of a motorboat shall apply in person to the circuit court clerk of the county as provided in KRS 235.050 and make application on a form furnished by the division of driver licensing. The application shall contain the full name and signature, citizenship of applicant, date of birth, sex, present resident address, the make of the boat, hull identification number (HIN), if any, length, beam, *model and horsepower of motor* [motive power], maximum capacity, type of hull material, and intended use of boat. The application shall state whether the motorboat is equipped with toilet facilities and shall describe the number and type of such facilities and shall state whether the storage container or treatment or disposal system for such facilities is a type approved by regulations promulgated pursuant to KRS chapter 224. It shall also state whether the applicant has been previously licensed or registered as an owner, and if so, when and by what state or county, whether any license registration or certificate number has been canceled, suspended, revoked, refused, and if so, the date of and reason for cancellation, suspension, revocation or refusal and such other information as may be required.

(2) Every applicant shall make oath as to the truthfulness of the statements contained in the form.

(3) The clerk shall, after determining that the applicant has complied with the law concerning applications, issue a temporary license, certificate of number or renewal thereof to be valid for not more than ninety days. Such temporary license shall be valid in lieu of the permanent license during the certification period and must be destroyed upon receipt of the permanent certificate from the division of driver licensing.

(4) No license for the operation of a motorboat shall be issued, if the motorboat is equipped with toilet facilities but is not equipped with a storage container or treatment or disposal system of a type approved under regulations promulgated pursuant to KRS Chapter 224.

Section 7. KRS 140.065 is amended to read as follows:

The provisions of KRS 140.010 to 140.090 shall not apply where a decedent, who was domiciled in this state at the time of his death, has a net estate of the fair cash value of *ten* [three] million dollars *($10,000,000)* [($3,000,000)] or more which would otherwise be taxable by this state for inheritance tax purposes. For purposes of this section only, the deductions allowed under KRS 140.090 and transfers exempt under the provisions of KRS 140.060 shall be deducted from the gross estate in arriving at the net estate. Such estates shall not be subject to an inheritance tax but shall be subject to an estate tax only which shall be equal to the amount of the credit allowable for state death taxes under the applicable federal tax law. Such taxes shall be collected as provided in KRS 140.130 and 140.140.

Section 8. KRS 131.190 is amended to read as follows:

(1) No present or former commissioner or employe of the department of revenue, member of a county

board of assessment appeals, property valuation administrator or employe thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the department or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the commissioner or any employe of the department of revenue from testifying in any court, or from introducing as evidence returns or reports filed with the department, in an action for violation of state or federal tax laws.

(2) The commissioner shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the department shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the department of revenue by any licensee under the gasoline excise tax law may be made public by the department.

(4) Not withstanding the above, information received from the internal revenue service shall not be made available to any other agency of state government, any city, or any other state.

Section 9. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky board of tax appeals made pursuant to KRS 131.350 shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500).

(2) In addition to the civil liability for interest and penalty provided in KRS 131.180, any person who wilfully fails to file any tax report or return within the specified time, for which failure a specific criminal penalty is not provided, shall, for the first offense, be fined not more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both. For any subsequent offense he shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than twelve (12) months, or both.

(3) Any person who violates any of the provisions of KRS 131.190, *except subsection (4) above,* shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and shall be disqualified and removed from office or employment. *Any person who violates the provisions of KRS 131.190(4) shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years or both.*

(4) Any person who wilfully fails to comply with the rules and regulations promulgated by the department of revenue for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20.00) nor more than one thousand dollars ($1,000).

(5) Any person who fails to do any act required or does any act forbidden by KRS 131.210 or 131.220 shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

Section 10. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means the commissioner of revenue;

(2) "Department" means the department of revenue;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, *1977* [1975], exclusive of any amendments made subsequent to that date;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude undistributed income or any losses attributed to shareholders of a corporation which has elected to be taxed under subchapter S of chapter 1 of the Internal Revenue Code;

(c) Exclude income from supplemental annuities provided by the railroad retirement act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(d) Include interest income derived from obligations of sister states and political subdivisions thereof;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by section 62 of the Internal Revenue Code and adjusted as follows, except that deductions shall be limited to amount allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Include all overpayments of federal income tax refunded or credited to the taxpayer during the taxable year;

(b) Deduct federal income tax;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus all the deductions allowed individuals by chapter 1 of the Internal Revenue Code *and by Section 214 of the Internal Revenue Code as it existed on December 31, 1975* except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) The net operating loss deduction allowed under section 172 of the Internal Revenue Code;

(b) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(c) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090 (h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090 (h);

(d) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof;

(12) "Gross income," in the case of corporations, means "gross income" as defined in section 61 of the Internal Revenue Code and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky constitution and the constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors under the provisions of section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of section 281 of the Internal Revenue Code in computing gross income;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus all the deductions from gross income allowed corporations by chapter 1 of the Internal Revenue Code, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in sections 172, [242,] 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(14)(a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section; and

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120.

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction.

(15) "Person" means "person" as defined in section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than 183 days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in section 3401(d) of the Internal Revenue Code;

(20) "Employe" means "employe" as defined in section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in section 3401(a) of the Internal Revenue Code *and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k)(o)(p) and (q) of the Internal Revenue Code*;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in section 7701(a)(3) of the Internal Revenue Code.

Section 11. KRS 141.180 is amended to read as follows:

(1) Every individual, except as otherwise provided in this section, having for the taxable year an adjusted gross income which exceeds sixteen hundred and fifty dollars ($1,650), if single, or if married and not living with husband or wife and every married individual living with husband or wife whose adjusted gross income combined with the adjusted gross income of his or her spouse exceeds twenty-six hundred and fifty dollars ($2,650) shall make to the department a return stating specifically the items which he claims as deductions and tax credits allowed by this chapter.

(2) Any individual who is blind or who has attained the age of sixty-five (65) before the close of his taxable year shall be required to make a return only if he has for the taxable year an adjusted gross income which exceeds thirty-six hundred and fifty dollars ($3,650). Every married individual living with husband or wife shall, if both spouses have attained the age of sixty-five (65), be required to make a return if the combined adjusted gross income of both spouses exceeds five thousand four hundred dollars ($5,400). If the individual is unable to make his own return, the return shall be made by a duly authorized agent.

(3) Any individual, who is both sixty-five (65) or over and blind before the close of the taxable year, shall make a return if he has for the taxable year an adjusted gross income which exceeds four thousand nine hundred dollars ($4,900).

(4) Notwithstanding any other provision of this section, an individual, having for the taxable year gross income from self-improvement of sixteen hundred and fifty dollars ($1,650) or more, shall make a return.

(5) Any nonresident individual with gross income from Kentucky sources and a total gross income of sixteen hundred and fifty dollars ($1,650) or over shall make a return.

(6) A husband and wife not living together shall make separate returns. A husband and wife living together may make a joint return, or may make separate returns. *However, in the event separate returns are made, neither spouse shall report income nor claim deductions properly attributable to the other.*

(7) An optional return properly filed under the provisions of KRS 141.023 shall be deemed sufficient to satisfy the provisions of this section.

(8) Each individual return shall be verified by a written declaration that it is made under the penalties of perjury.

Section 12. KRS 141.305 is amended to read as follows:

(1) The estimated tax provided for in KRS 141.300 shall be paid as follows:

(a) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four (4) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second and third on June 15 and September 15, respectively, of the taxable year, and the fourth on January 15 of the succeeding taxable year;

(b) If the declaration is filed after April 15 and not after June 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before April 15 of the taxable year, the estimated tax shall be paid in three (3) equal installments. The first installment shall be paid at the time of the filing of the declaration, the second on September 15 of the taxable year, and the third on January 15 of the succeeding taxable year;

(c) If the declaration is filed after June 15 and not after September 15 of the taxable year and is not required by subsection (3) of KRS 141.300 to be filed on or before June 15 of the taxable year, the estimated tax shall be paid in two (2) equal installments. The first installment shall be paid at the time of the filing of the declaration and the second on January 15 of the succeeding taxable year;

(d) If the declaration is filed after September 15 of the taxable year, and is not required by subsection (3) of KRS 141.300 to be filed on or before September 15 of the taxable year, the declaration shall be filed and estimated tax shall be paid on or before January 15 of the succeeding taxable year;

(e) If the declaration is filed after the time prescribed in KRS 141.300, including cases where extensions of time have been granted, paragraphs (b), (c), and (d) of this subsection shall not apply, and there shall be paid at the time of such filing all installments of estimated tax which would have been payable on or before such time if the declaration has been filed within the time prescribed in subsection (3) of KRS 141.300, and the remaining installments shall be paid at the times at which, and in the amounts in which, they would have been payable if the declaration had been so filed. Provided, that payments required under this section for purposes of the taxable year 1954 shall be limited to fifty percent of the total estimated tax for 1954.

(2) If any amendment of a declaration is filed, the remaining installments, if any, shall be ratably increased or decreased as the case may be, to reflect the respective increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year any increase in the estimated tax by reasons thereof shall be paid at the time of making such amendment.

(3) At the election of the individual, any installment of the estimated tax may be paid prior to the date prescribed for its payment.

(4) Payment of the estimated tax, or any installment thereof shall be considered payment on account of the tax for the taxable year. Assessment in respect of the estimated tax shall be limited to the amount paid.

(5) In the case of an individual whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year, in lieu of the time prescribed in subsection (3) of KRS 141.300, the declaration for the taxable year may be made at any time on or before January 15 of the succeeding taxable year; and if such an individual files a return on or before March 1 of the succeeding taxable year, and pays in full the amount computed on the return as payable, such return shall have the same effect as that prescribed in subsection (5) of KRS 141.300 in the case of a return filed on or before January 31.

(6) The application of this section, KRS 141.300, and subsection *(7)* [(8)] of KRS 141.990, to taxable years of less than twelve months shall be as prescribed in regulations promulgated by the department.

(7) In the application of this section and KRS 141.300 to taxpayers reporting income on a fiscal year basis, there shall be substituted for the date specified therein, the months corresponding thereto.

Section 13. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon such wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If congress changes substantially the federal income tax, the department shall make such change in these tables as necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The department may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of such calculation shall be secured from the department at least thirty days before the first payroll period for which it is to be used.

(7) The department may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employe in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to such employe during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employe during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employe during such quarter to the amount that would be required to be deducted and withheld during such quarter if the payroll period of the employe was quarterly.

(8) The department is authorized to provide by regulation, under such conditions and to such extent as it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employe agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the department. Such bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the department, but in no case shall exceed fifty thousand dollars.

(10) The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted *or the tax required to be withheld is paid or both*. Such action may be brought in the Franklin Circuit Court or in the circuit court having jurisdiction of the defendant.

Section 14. KRS 141.325 is amended to read as follows:

(1) An employe receiving wages shall on any day be entitled to the following withholding exemptions:

(a) One (1) exemption for himself;

(b) One (1) exemption for each dependent for whom he would be entitled to a tax credit under the provisions of KRS 141.020 (3) (c);

(c) If the employe is married, the exemption to which his spouse is entitled, or would be entitled if such spouse were an employe, under subparagraph (a) of this subsection, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption*;*

(d) Such other withholding exemptions as the department may prescribe by regulation.

(2) Every employe shall, on or before July 1, 1954, or before the date of commencement of employment, whichever is later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions which he claims, which in no event shall exceed the number to which he is entitled.

(3) Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished; Provided, That certificates furnished before July 1, 1954, shall be considered as furnished on that date.

(4) A withholding exemption certificate which takes effect under this section shall continue in effect with respect to the employer until another such certificate takes effect under this section. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least thirty (30) days after the date on which such new certificate is furnished.

(5) If, on any day during the calendar year, the number of withholding exemptions to which the employe may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employe is entitled on such day, the employe shall in such cases and at such time as the department may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this subsection shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) If, on any day during the calendar year, the number of withholding exemptions to which the employe is entitled is less than the number of withholding exemptions claimed by the employe on the withholding exemption certificate then in effect with respect to him, the employe shall, within ten (10) days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employe then claims, which shall in no event exceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employe is entitled is greater than the number of withholding exemptions claimed, the employe may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employe then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) Withholding exemption certificates shall be in such form and contain such information as the department may by regulations prescribe.

Section 15. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and KRS 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one or more employes of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply to each or every person holding such corporate office at the time such tax becomes or became obligated.

Section 16. KRS 141.990 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the net income from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of twenty-five percent of the amount of any deficiency tax assessed concerning such failure or refusal to file a return or furnish any information. This penalty shall be in addition to all other applicable penalties in this section.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, or fails to pay the tax imposed by this chapter within the time prescribed, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent of the tax found to be due by the department shall be added to the tax for each thirty days or fraction thereof that either filing the return or paying the tax is beyond the time prescribed or extended but the total penalty shall not exceed twenty-five percent of the tax.

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(4) If any part of any deficiency is due to fraud with intent to evade tax fifty percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(5) [If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of eight percent per annum from the date prescribed for its payment until payment is actually made to the department.

(6)] Any person required under the provisions of KRS 141.150 or 141.335 to furnish a statement required under that section who willfully furnishes a false or fraudulent statement, or who willfully fails to furnish a statement in the manner at the time and showing the information required under KRS 141.150 and 141.335, may for each such failure be subject to a civil penalty of ten dollars. Such penalty may be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(6) [(7)](a) Any employer required under the provisions of KRS 141.310, 141.315 or 141.330 to withhold taxes on wages, file returns, and make payment of amounts withheld to the department, who fails to withhold such taxes, or to file such returns when due, or who fails to remit amounts collected to the department when due, or when filing the returns understates the amount due shall, unless such failure to comply is shown to the satisfaction of the department to be due to reasonable cause, be subject to a civil penalty equal to five percent per month or fraction thereof not to exceed twenty-five percent, of the amount of taxes that should have been properly withheld and paid over to the department, or ten dollars ($10), whichever is greater, for each such failure. However, where such failure is shown to be due to reasonable cause the department may reduce the penalty provided herein to an amount equal to five percent of the amount of taxes that should have been properly withheld and paid over to the department but not to exceed one hundred dollars, or ten dollars ($10), whichever is greater, for each such penalty. Each penalty shall be assessed and collected by the department and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return and payment are received within thirty days after the due date and the employer has no previous record of late filing or late payment within two years next preceding such due date.

(b) Any employer required to file a return under the provisions of KRS 141.330(1) when no tax should have been properly withheld, and who fails to file the same when due, shall be subject to a civil penalty of ten dollars ($10) for each violation. Such penalty shall be assessed and collected by the department and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110. The penalty may be waived if the return is received within thirty days after the due date and the employer has no previous record of late filing within two years next preceding such due date.

(7) [(8)] Any individual required by KRS 141.300 to file a declaration of estimated tax and required by KRS 141.305 to pay such declaration of estimated tax may be subject to a penalty of ten percent of any underpayment or any late payment. Underpayment, for purposes of this subsection, is determined by subtracting applicable credits allowed by KRS 141.070, 141.300 and 141.310 from seventy percent of the tax liability as shown on the return for the taxable year. This subsection shall not apply to the taxable year in which the death of the taxpayer occurs nor in the case of a farmer exercising an election under subsection (5) of KRS 141.305.

(8) [(9)] Any corporation required by KRS 141.042 to file a declaration of estimated tax and required to pay such declaration of estimated tax by the installment method prescribed by subsection (1) of KRS 141.044, may be subject to a penalty of ten percent of any installment underpayment or any installment not paid on time. Installment underpayment is the installment determined by subsection (1) of KRS 141.044, less the installment actually paid, based upon seventy percent of the income tax shown to be due on the final return for the year reduced by five thousand dollars $5,000. [Provided, however, that no corporation which filed declarations on the basis of its taxable income for the immediately preceding fiscal year and pays the amount thus computed when due shall be liable for any penalty under this subsection.]

(9) [(10)] Any penalty imposed by subsections (1), (2), (3), (4), (5), (6), (7), *or* (8) [or (9)] of this section shall be assessed, collected, and paid in the same manner as if it were a deficiency.

(10) [(11)] Every tax imposed by this chapter, and all increases, interest and penalties thereon, shall become, from the time it is due and payable, a personal debt to the state from the taxpayer or other person liable therefor.

(11) [(12)] In addition to the penalties herein prescribed, any taxpayer or employer, who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall upon conviction thereof be fined not less than five hundred dollars nor more than five thousand dollars, or confined in the penitentiary for not less than twelve months or more than five years, or both.

(12) [(13)] Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under KRS Chapter 141 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document shall be guilty of a felony and, upon conviction thereof, shall be fined not more than five thousand dollars, or imprisoned not more than three years, or both, together with the costs of prosecution.

(13) [(14)] A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the department and required to be filed with the department by the provisions of this chapter, or by the rules and regulations of the department or by written request for information to the taxpayer by the department.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of eight percent per annum from the date prescribed for its payment until payment is actually made to the department. Interest shall be assessed, collected, and paid in the same manner as if it were a deficiency.

Section 18. KRS 136.377 is amended to read as follows:

(1) Any company whose tax, as provided in KRS 136.330, 136.340, 136.350, 136.370 and 342.445 or 304.3-270 was five thousand dollars or more in the previous year shall file a declaration of estimated tax and remit one third of such amount on or before June 1, 1965, provided that if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments. The remainder of the tax shall be due on or before March 1, 1966.

(2) As provided in subsection (1) of this section, but beginning in 1966, and each year thereafter, the tax due shall be paid in three installments, one third on or before June 1, one third on or before October 1, and the remainder on or before the following March 1. Provided, however, if any taxpayer uses the amount of the tax liability for the previous calendar year as the estimate for such declaration no penalties or interest shall apply to any subsequent adjustments.

(3) Any adjustments may be made on or before October 1. All adjustments shall be made on or before March 1.

(4) All such taxes not paid when due *may* [shall] be subject to a penalty of five percent per month, but not more than twenty-five percent penalty shall be assessed on any one report, and interest at the rate of one-half of one percent per month from the date the report was due.

Section 19. KRS 138.130 is amended to read as follows:

As used in KRS 138.130 to 138.205, unless the context requires otherwise:

(1) "Department" means the department of revenue.

(2) "Manufacturer" means any person who manufactures or produces cigarettes within or without this state.

(3) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale.

(4) "Sale at retail" shall mean a sale to any person for any other purpose other than resale.

(5) "Cigarettes" shall mean and include any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(6) "Sale" or "sell" shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, advertising for sale, soliciting an order for cigarettes, and distribution in any manner or by any means whatsoever.

(7) "Tax evidence" shall mean and include any stamps, metered impressions or other indicia prescribed by the department by regulation as a means of denoting the payment of tax.

(8) "Person" shall mean and include any individual, firm, copartnership, joint venture, association, municipal or private corporation whether organized for profit or not, commonwealth of Kentucky or any of its political subdivisions, estate, trust or any other group or combination acting as a unit, and the plural as well as the singular.

(9) "Resident wholesaler" shall mean any person who purchases at least seventy-five per cent (75%) of all cigarettes purchased by him directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state where he attaches cigarette tax evidence, or receives untaxed cigarettes.

(10) "Nonresident wholesaler" shall mean any person who purchases cigarettes directly from the manufacturer and maintains a permanent location or locations outside this state where Kentucky cigarette tax evidence is attached or from where Kentucky cigarette tax is reported and paid.

(11) "Sub-jobber" shall mean any person who purchases cigarettes from a wholesaler licensed under KRS 138.195 on which the Kentucky cigarette tax has been paid and makes them available to retailers for resale. *No person shall be deemed to make cigarettes available to retailers for resale unless such person certifies and establishes to the satisfaction of the department that firm arrangements have been made to regularly supply at least five (5) retail locations with Kentucky taxpaid cigarettes for resale in the regular course of business.*

(12) "Vending machine operator" shall mean any person who operates one or more cigarette vending machines.

(13) "Transporter" shall mean any person transporting *untaxpaid* cigarettes obtained from any source to any destination within this state, other than cigarettes transported by *the manufacturer thereof* [resident wholesalers, nonresident wholesalers, sub-jobbers, vending machine operators and unclassified acquirers licensed under the provisions of KRS 138.195, provided that it shall not include any person transporting no more than 1,000 cigarettes at one (1) time].

(14) "Unclassified acquirer" shall mean any person in this state who acquires cigarettes from any source on which the Kentucky cigarette tax has not been paid, and who is not a person otherwise licensed under the provisions of KRS 138.195.

Section 20. KRS 138.185 is amended to read as follows:

If any person becomes delinquent in the payment of any tax due under KRS 138.130 to 138.205, he shall, in addition to any such tax due, pay a penalty equivalent to twenty percent (20%) of the tax due *and delinquent, together with interest at eight percent (8%) per annum from the date due until the date of payment*

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Section 21. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1972 a tax levied upon its retail price at the rate of five percent shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. In the case of trucks of gross weight in excess of ten thousand pounds (10,000 lbs.) the tax shall be levied upon ninety percent of the retail price of the vehicle.

(2) The tax shall be collected by the county court clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state,

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the department of revenue on forms provided by the department and on such forms as the department may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to two and one-half percent of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the department.

(7) Notwithstanding the provisions of KRS 138.450(3), in no case shall the tax be less than five dollars ($5.00) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under 138.470.

(8) Where a new motor vehicle is sold by a dealer in this state and the original purchaser returns the vehicle for any reason to the same dealer within *thirty (30)* [ten (10)] days for a new vehicle replacement, the purchaser shall be entitled to a refund of the amount of usage tax received by the department of revenue as a result of the registration of the returned vehicle. The registration of the returned vehicle shall be cancelled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer replaces for the original purchaser within ninety (90) days a new motor vehicle because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the department of revenue as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the department of revenue an affidavit from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

Section 22. KRS 138.463 is amended to read as follows:

(1) On and after January 1, 1973, a holder of a certificate as required under KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014 may pay the usage tax as provided in KRS 138.460 or may pay a usage tax of five per cent (5%) levied upon the amount of the gross rental or lease charges paid by a customer or lessee renting or leasing a motor vehicle from such holder of the certificate.

(2) In the event the holder of such certificate elects to pay the usage tax by the alternate method as provided in subsection (1), he shall present his certificate to the county clerk at the time the motor vehicle is offered for registration in Kentucky and the following provisions shall be applicable.

(3) The tax shall be the direct obligation of the holder of the certificate but it may be charged to and collected from the customer in addition to the rental or lease charges. The tax due shall be remitted to the Department of Revenue each month on forms and pursuant to regulations promulgated by the department.

(4) Failure of the holder of the certificate to remit the taxes applicable to the rental and leasing charges as provided herein shall be sufficient cause for the bureau of vehicle regulation to void the certificate issued to such holder and the usage tax on each of the motor vehicles which had been registered by the holder under the certificate shall be due and payable on the retail price of each such motor vehicle when it was first purchased by the holder.

(5) In the event any motor vehicle registered under a u-drive-it certificate is used for any purpose other than lease or rental, the usage tax on such motor vehicle shall be due and payable on the retail price of each such motor vehicle as of the time it was first registered by the holder. If such use is made after the motor vehicle has been leased or rented and the appropriate tax has been paid on such leases or rentals, such amount of tax paid may be credited against the tax due on the retail price. Family use or loan to customer or employe are examples of uses that would require immediate payment of the usage tax on retail price.

Section 23. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) [A tax of two dollars and fifty cents ($2.50) for each survey consisting of ten (10) acres or less, and of five dollars ($5.00) for each survey in excess of ten (10) acres, on the filing and registering of a plat and certificate of survey and issuing and recording patent thereon, to consist of one (1) charge which shall be paid before the survey is filed, but not to apply to a survey heretofore filed in the registrar's office;

(c)] A tax of one dollar ($1.00) on each power of attorney to convey real or personal property; on each mortgage, financing statement, security agreement or conveyance of real or personal property, and on each lien or conveyance of coal, oil, gas or other mineral right or privilege; except that no tax shall be paid on any chattel mortgage, financing statement or security agreement unless the amount thereof exceeds two hundred dollars ($200) [;

(d) A tax of one dollar ($1.00) for issuing a land warrant;

(e) A tax of one dollar ($1.00) for each official certificate with seal of office affixed;

(f) A tax of fifty cents (50¢) on the seal of a court required by law to keep a seal, except for the purpose of issuing a license authorized by the state;

(g) A tax of fifty cents (50¢) for a copy of a plat; for a copy of a course and distances of a patent or survey; and for a copy of an entry or land warrant;

(h) A tax of twenty-five cents (25¢) for filing a caveat; for filing a copy of a judgment of a court in a case of a caveat, mandamus or other proceeding affecting the land office or the duties of the secretary of state with respect thereto; and for a copy of an assignment;

(i) A tax of two cents (2¢) for each twenty (20) words of a copy of a caveat or a copy of any writing not specifically provided for].

(2) The tax imposed by this section shall be *collected by each county clerk as a prerequisite to the filing of an instrument subject to the tax or the issuance of a marriage license* [due and payable when the process or instrument is filed or issued, or copies thereof furnished]. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section and vehicle lienholder penalties imposed by KRS 186.045(3) shall be reported and paid to the department of revenue by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the department.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the department on or before the due date shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the rate of eight percent (8%) per annum from the date due until the date of payment.

Section 24. KRS 142.015 is amended to read as follows:

The county court clerk, in each county, shall be allowed five per cent (5%) commission on the amounts collected for state taxes on legal processes and instruments provided for under KRS 142.010, said five per cent (5%) commission to be retained by the county clerk on said sums reported to the department of *revenue* [finance] and paid by the county clerk into the state treasury.

Section 25. KRS 243.730 is amended to read as follows:

(1)(a) Wholesalers of distilled spirits and wine shall pay and report the tax levied by KRS 243.720 (1) and (2) on or before the fifteenth day of the calendar month next succeeding the month in which possession or title of the alcoholic beverages is acquired, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the commonwealth.

(b) Brewers of malt beverages shall pay and report the tax levied by KRS 243.720 (3) on or before the fifteenth day of the calendar month next succeeding the month in which the brewer sells, transfers, or passes title of the malt beverage to a distributor, retailer or consumer within this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the commonwealth.

(c) Every other person selling, transferring, or passing title of distilled spirits, wine or malt beverages to distributors, retailers or consumers shall report and pay the tax levied by KRS 243.720(1), (2) or (3) on or before the fifteenth day of the calendar month next succeeding the month in which possession or title of distilled spirits, wine or malt beverages is transferred to a distributor, retailer or consumer in this state, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth.

(d) Every distributor, retailer or consumer possessing, using, selling or distributing distilled spirits, wine or malt beverages in this state upon which the tax levied by KRS 243.720(1), (2) or (3) has not been paid shall be jointly and severally liable for reporting and paying the tax due, in accordance with rules and regulations of the department of revenue designed reasonably to protect the revenues of the Commonwealth. Such liability shall not be extinguished until the tax has been paid to the department.

(2) [(a)] Every wholesaler of distilled spirits or wine before using, selling or distributing by sale or gift distilled spirits and wine shall qualify with the department of revenue. In order to so qualify, *each wholesaler shall furnish to the department of revenue a certified copy of the bond required to be filed with the department of alcoholic beverage control under the provisions of KRS 243.400(2)* [and in lieu of furnishing a bond or other security, each wholesaler who was licensed in this state on February 29, 1960, shall make an advance payment of tax to the department in an amount equal to twice the average monthly liability of such wholesaler for taxes imposed by KRS 243.720 (1) and (2) during the calendar year 1959 as shown by records of the department.

(b) Any person who acquired or who shall acquire a license as a wholesaler of distilled spirits or wine on or after March 1, 1960 shall immediately prepare and file a report on a form prescribed by the department. Such report shall contain an estimate of the total number of wine gallons of distilled spirits and the total number of gallons of wine for which the wholesaler expects to become liable for the payment of tax under KRS 243.720 (1) and (2) during the first twelve (12) months that he is engaged in business. Immediately upon the receipt of the report from the wholesaler, the department shall determine the average monthly amount of tax imposed by KRS 243.720 (1) and (2) for which it appears that the wholesaler may become liable and shall bill the wholesaler for an amount of tax equal to twice the monthly average. The department shall have the power to adjust the estimate in order to make it conform as nearly as practicable with the past experience of other wholesalers who have been engaged in business for twelve (12) months or more, and in no event shall the advance payment required of any new wholesaler be less than one-half (1/2) of the average amount of advance payments required under paragraph (a) of this subsection, as determined by the department. The bill for advance tax shall be due and payable immediately upon receipt by the wholesaler. He shall make payment to the department by cashier's or certified check before using, selling or distributing by sale or gift any distilled spirits or wine].

(3) [(a)] *Notwithstanding the provisions of KRS 243.400(1)* [Beginning April 1, 1960], every brewer before selling or distributing by sale or gift malt beverages, or before importing malt beverages into the state, shall qualify with the department of revenue *by filing with the department a corporate surety bond in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times his average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the department and shall have corporate surety registered by the department of insurance. The brewer shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the brewer to the department of revenue of all malt beverage taxes due, with penalties and interest.* [In order to so qualify, each brewer who was licensed in this state on February 29, 1960, or who was qualified to import malt beverages into this state on February 29, 1960, shall make an advance payment of tax to the department in an amount equal to twice the average monthly liability of such brewer for taxes imposed by KRS 243.720 (3) during the calendar year 1959 as shown by records of the department.

(b) Any person who acquired or who shall acquire a license as a brewer, or who shall apply for authority to import malt beverages into this state on or after March 1, 1960, shall immediately prepare and file a report on a form prescribed by the department. Such report shall contain an estimate of the total quantity of malt beverages for which the brewer expects to become liable for the payment of tax under KRS 243.720 (3) during the first twelve (12) months that he is engaged in business. Immediately upon the receipt of the report from the brewer, the department shall determine the average monthly amount of tax imposed by KRS 243.720 (3) for which it appears that the brewer may become liable and shall bill the brewer for an amount of tax equal to twice the monthly average. The department shall have the power to adjust the estimate in order to make it conform as nearly as practicable with the past experience of other brewers who have been engaged in business for twelve (12) months or more, and in no event shall the advance payment required of any new brewer be less than one-half (1/2) of the average amount of advance payment required under paragraph (a) of this subsection, as determined by the department. The bill for advance tax shall be due and payable immediately upon receipt by the brewer. He shall make payment to the department by cashier's or certified check before selling or distributing malt beverages or before importing malt beverages into this state.]

(4) [(a)] *The department shall have the power to require a bond from any other person liable for Kentucky distilled spirits, wine or malt beverage taxes provided such person is not otherwise required to post a bond under the provisions of this section. The amount of the bond for persons liable for Kentucky distilled spirits or wine tax shall be computed as provided in KRS 243.400(2). The amount of the bond for persons liable for Kentucky malt beverage tax shall be computed as provided in subsection three (3) of this section* [Upon application and proof of previous compliance with the payment and reporting of the tax in accordance with the applicable regulations, the department may substitute bond, with or without approved surety, as determined in its discretion upon consideration of the financial condition of the applicant, for all or any part of the advanced payments made pursuant to this section.

(b) Upon substitution of bond as provided in this section, advance payment of taxes made by the wholesaler or brewer pursuant to this section shall be applied as credits on the tax due by such wholesaler or brewer pursuant to rules and regulations of the department. In the event that any wholesaler or brewer shall cease doing business in this state, any such advance payment of taxes, not previously credited, shall be refunded pursuant to rules and regulations of the department].

Section 26. KRS 243.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of KRS 243.020 to 243.670, for which no other penalty is provided, shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license.

(2) Any person who, by himself or through another, directly or indirectly, violates subsection (1) of KRS 243.030 shall, for the first offense, be fined not less than one hundred (100) nor more than two hundred dollars ($200), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; for the second offense he shall be fined not less than two hundred (200) nor more than five hundred dollars ($500), or be imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the third and each subsequent offense, he shall be fined not less than five hundred (500) nor more than five thousand dollars ($5,000), or be imprisoned in the penitentiary for not more than five (5) years, or both.

(3) Any person who violates subsection (3) of KRS 243.020 shall be fined not less than one hundred (100) nor more than five hundred dollars ($500).

(4) Any person who violates KRS 243.620 with respect to a license issued under KRS 243.050 shall be fined not less than fifty (50) nor more than five hundred dollars ($500).

(5) [Any person who violates any of the provisions of KRS 243.680 to 243.700 shall be fined not less than five hundred (500) nor more than one thousand dollars ($1,000).

(6) Any person who fails to pay the taxes imposed by KRS 243.680 to 243.700 within fifteen (15) days after they have become due, shall pay a penalty of twenty per cent (20%) on the amount of the tax due.

(7)] Any person who violates any of the provisions of KRS 243.720 or 243.730 or any regulation issued thereunder shall be fined not less than fifty dollars ($50.00) nor more than one thousand dollars ($1,000), or be imprisoned for not less than thirty (30) days nor more than one (1) year, or both.

(6) [(8)] Any person required to pay any tax *or file any report or statement provided* [imposed] by KRS *243.710 to 243.850* [243.720 or 243.730], who fails to pay the tax *or file any report or statement* when due shall, *unless it is shown to the satisfaction of the department that the failure is due to reasonable cause,* pay a penalty *of ten dollars ($10) or an amount* equal to twenty per cent (20%) of the [amount of the] tax due and delinquent, *whichever is greater* [together with interest at six per cent (6%) per annum].

(7) In every case, any tax imposed by KRS 243.710 to 243.720 which is not paid on or before the due date shall bear interest at the rate of eight percent (8%) per annum from the due date until the date of payment.

[(9) If after withdrawing distilled spirits under KRS 243.870 any person sells same, or any part thereof, or places same in the ordinary channels of trade, he shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not less than thirty (30) days nor more than sixty (60) days, or both.]

Section 27. KRS 278.150 is amended to read as follows:

(1) The commission shall, on or before June 1, certify to the department of revenue *and the executive department for finance and administration* the amount of intrastate business of each utility in the state during the previous calendar year. *The executive department for finance and administration shall, on or before June 10, establish the assessment rate and give written notification thereof to the department of revenue and the public service commission.* The department of revenue shall collect and pay the assessment into the state treasury to the credit of the general expenditure fund. All such assessments shall be paid into the state treasury through the *department of revenue* [executive department for finance and administration] on or before July 31 of the year in which the assessments are made.

(2) If any amount in the special fund for the maintenance of the commission remains unexpended at the end of the 1971-72 fiscal year, that amount shall not lapse, but shall remain credited to the account of the commission and may be used during any succeeding year.

Section 28. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the department may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 (2) *which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid*; or, the sales price of vehicles defined under KRS 189.010 (5) and 189.010 (10) [which have never been registered in Kentucky].

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the department that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 29. KRS 139.320 is amended to read as follows:

(1) The use tax of five per cent (5%) is hereby levied upon the storage, use or other consumption in this state of any machines, machinery, tools or other equipment brought, imported or caused to be brought into this state for use in constructing, building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage, or dredging system, electric or steam railway system, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading or other improvement or structures, or any part thereof. The owner or, if the property is leased the lessee of any such machine, machinery, tools or other equipment shall be liable for the tax provided for in this chapter, to be computed as set out below. The useful life of such machines, tools or other equipment shall be determined by the department in accordance with the depreciable value permitted under KRS chapter 141 and regulations issued pursuant thereto. Said use tax shall be computed on the basis of such proportion of the original purchase price of such property as the duration of time of use in this state bears to the total useful life. Such tax shall become due immediately upon such property's being brought into this state, and in the absence of satisfactory evidence as to the period of use intended in this state, it shall be presumed that such property will remain in this state for the remainder of its useful life.

(2) The provisions of this section shall not be applicable with respect to sales of such property within this state or to the use, storage or consumption of such property when purchased for use in this state, and in such cases the full sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in this state.

(3) For the purposes of this section, the total useful life of property which is fully depreciated at the time of being brought into this state or becomes fully depreciated while in use in this state shall be extended to include the time of use in this state. In the absence of satisfactory evidence as to the period of use in this state, the tax shall be computed on an annual basis and shall be paid as provided by KRS 139.540.

Section 30. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three per cent (3%) of the cost of production. *Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location*;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption, and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business; Provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and Provided further That such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Machinery for new and expanded industry;

(9) Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(10) Property which has been certified as a pollution control facility as defined in KRS 224.850; and

(11) Tombstones and other memorial grave markers.

Section 31. KRS 139.500 is amended to read as follows:

(1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are required to be included in the measure of the tax levied under KRS 139.200 is not subject to the use tax.

(2) The storage, use, or other consumption in this state of gasoline or special fuels on which the tax under KRS chapter 138 has been paid and which is not subject to refund under KRS 138.341, 138.344, *138.445*, 279.200, or 279.530 shall not be subject to the use tax.

Section 32. KRS 139.620 is amended to read as follows:

(1) As soon as practicable after each return is received, the department shall examine and audit it. If the amount of tax computed by the department is greater than the amount returned by the taxpayer, the excess shall be assessed by the department within four (4) years from the date the return was filed, except as provided in subsection (2), and except that in the case of a failure to file a return or of a fraudulent return the excess may be assessed at any time. A notice of such assessment shall be mailed to the taxpayer. The time herein provided may be extended by agreement between the taxpayer and the department.

(2) For the purpose of *subsections* [subsection] (1) *and (4)*, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) When a business is discontinued, a determination may be made at any time thereafter within the periods specified in subsection (1) as to liability arising out of that business, irrespective of whether the determination is issued prior to the due date of the liability as otherwise specified in this chapter.

(4) Notwithstanding the four (4) year time limitation of subsection (1), in the case of a return where the tax computed by the department is greater by twenty-five percent (25%) or more than the amount returned by the taxpayer, the excess shall be assessed by the department within six (6) years from the date the return was filed.

Section 33. KRS 139.980 is amended to read as follows:

(1) If any taxpayer fails or refuses to file a return or furnish any information requested in writing by the department, the department may make an estimate of the tax liability under this chapter from any information in its possession, assess the tax at not more than twice the amount estimated to be due and add a penalty of ten percent of the amount of the tax assessed. This penalty shall be in addition to all other applicable penalties in this chapter.

(2) If any taxpayer fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the department, then, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, five percent of the tax found to be due by the department shall be added to the tax for each thirty days or fraction thereof elapsing between the due date of the return and the date on which filed, but the total penalty shall not exceed twenty-five percent of the tax, provided, however, that in no case shall the penalty be less than ten dollars.

(3) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five percent of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this chapter shall apply.

(4) If the tax imposed by this chapter, whether assessed by the department, or the taxpayer, or any installment or portion of the tax is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the tax, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the department. If any assessment made by the department is not paid within the time prescribed, or protested in accordance with KRS 131.110, the taxpayer shall pay as a penalty, in addition to the amount of the tax and other applicable penalties, one percent of the tax for each *thirty (30) days or fraction thereof* [month] the tax remains unpaid.

(5) Any person required under the provisions of this chapter or regulations adopted thereunder to furnish a statement or certificate (including the certificate referred to in KRS 139.750), who furnishes a statement or certificate containing any false or fraudulent statement, or who willfully fails to furnish such a statement or certificate in the manner and at the time required under this chapter and regulations, shall, for each such failure be subject to a civil penalty of ten dollars. Such penalty shall be assessed and collected by the department, and the assessment of such penalty may be reviewed only in the manner provided in KRS 131.110.

(6) If any taxpayer fails to pay the tax imposed by this chapter within the time prescribed, unless it is shown to the satisfaction of the department that the failure was due to reasonable cause, the department may assess a penalty of ten percent (10%) of the tax due, provided, however, that in no case shall the penalty be less than ten dollars ($10.00).

SECTION 34. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) The taxes paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit is made by the taxpayer within four (4) years of the due date of the return or the date the taxes were paid, whichever is the later.

(2) A claim for refund or credit shall be made on a form prescribed by the department and shall contain such information as the department may require.

(3) No taxpayer shall be entitled to a refund or credit of the taxes paid pursuant to the provisions of this chapter where the taxes have been collected from a purchaser as provided by KRS 139.210 and 139.340, unless the amount of taxes collected from the purchaser are refunded to him by the taxpayer who paid the taxes to the state treasury.

(4) Where applicable, the amount of any claim for refund or credit shall be reduced by the amount deducted by the taxpayer pursuant to KRS 139.570 at the time the taxes were paid to the state treasury.

Section 35. KRS 131.110 is amended to read as follows:

(1) The department of revenue shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be final if not protested in writing to the department within thirty (30) days from the date of notice. Such protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of such extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the department. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the department shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the department, generally state the issues in controversy, the department's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky board of tax appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the department shall issue such ruling within thirty (30) days from the date the request is received by the department.

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky board of tax appeals pursuant to the provisions of KRS 131.340.

[(1) The department of revenue or its agent shall mail to the taxpayer a notice of any tax assessed by it or its agent. Unless the taxpayer protests the assessment in the manner provided in this subsection, the assessment shall be final at the expiration of thirty (30) days from the date of notice, but the assessment shall be reviewable as provided by law. Such protest shall be filed with the department of revenue in writing and shall be accompanied by a supporting statement setting forth the grounds for and information upon which the protest is made. Upon written request, the department may extend the time for filing the supporting statement if it appears that the delay is necessary and unavoidable. A refusal of such an extension may be reviewed in the same manner as in the case of a protested assessment. At the time of filing both the protest and supporting statement, the taxpayer may request a ruling on the protest as filed or may request a conference with the department or its agent which shall be granted in writing stating the time set for the conference. The taxpayer may appear in person or by representative. After considering the taxpayer's protest, including any matters presented at such a conference, the department or its agent shall issue a final ruling thereon which shall be mailed to the taxpayer. The tax shall be due and payable upon the date the assessment becomes final unless the taxpayer appeals to the Kentucky board of tax appeals.

(2) When an assessment by the department of revenue is protested, the Kentucky board of tax appeals may order the department to certify the unprotested portion immediately and the taxes on the unprotested portion shall be paid in the usual manner and time. When the protest is finally disposed of, the department shall further certify any additional assessment provided for in the Kentucky board of tax appeals or court order. A copy of the final decision of the board shall be mailed to the taxpayer after it has considered all of the evidence and facts presented. If the Kentucky board of tax appeals reviews an assessment, the taxes determined to be owing shall be due and payable thirty (30) days after the date of notice of the decision of the board.]

Section 36. KRS 131.370 is amended to read as follows:

(1) Any party aggrieved by any final order, decision, or determination of the Kentucky board of tax appeals, except on appeals from a county board of supervisors, may [within thirty (30) days after such order, decision, or determination becomes final file a petition of] appeal on any question of law to the Franklin circuit court or to the circuit court of the county in which the party aggrieved resides or conducts his place of business. Any [such] final orders entered on the rulings of a county board of assessment appeals may be appealed in like manner to the circuit court of the county in which the appeal originated. All parties to the proceedings before the board of tax appeals shall be made parties to the proceedings on appeal. [A copy of the petition of appeal shall be filed with the board and all other parties against whom the appeal is prosecuted.]

(2) *A notice of appeal shall be filed with the board of tax appeals within thirty (30) days after any final order, decision or determination by the board. Within thirty (30) days thereafter, a statement of appeal shall be filed with the appropriate circuit court together with the certified record of the Kentucky board of tax appeals. The statement of appeal shall substantially conform to that required to be filed in the Kentucky supreme court. The appeal shall be docketed by the circuit court clerk upon the filing of the statement of appeal and the Kentucky board of tax appeals' certified record* [The petition shall state fully the grounds upon which a review is sought, and assign all errors relied on. Summons shall issue upon the petition directing the adverse party to file answer within twenty (20) days after service thereof and directing the board to send its entire original record, properly bound, to the clerk of the circuit court, after certifying that such record is its entire original record, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review].

(3) No new or additional evidence may be introduced in the circuit court except as to the fraud or misconduct of some person engaged in the administration of the revenue laws and affecting the order, ruling or award, but the court shall otherwise hear the cause upon the record as certified by the board and shall dispose of the cause in summary manner, its review being limited to determining whether or not:

(a) The board acted without or in excess of its powers;
(b) The order, decision, or award was procured by fraud;
(c) The order, decision, or award is not in conformity to the law; and
(d) If findings of fact are in issue, whether such findings of fact support the order, decision or award.

(4) The court shall enter judgment affirming, modifying, or remanding the order in its discretion. The court may, before judgment, upon the showing of sufficient cause, remand the entire matter to the board for further consideration.

(5) Any party may appeal to the court of appeals as provided by the rules of civil procedure.

Section 37. KRS 452.505 is amended to read as follows:

The following actions may be brought in the Franklin circuit court, *or in the Franklin district court,* or in any other circuit court *or district court* having venue:

(1) Actions to collect the revenue and all other claims, demands and penalties due the Commonwealth, or to have satisfaction made of judgments in favor of the Commonwealth, except those actions which are

prosecuted by an appeal to the Kentucky board of tax appeals under the provisions of KRS 131.110 and KRS 131.340.

(2) Actions against persons required to collect money due the Commonwealth, to pay money into the state treasury, or to do any other act connected with the payment of money into the state treasury after it has been collected, and against the sureties, heirs, devisees or representatives of such persons.

(3) Actions to surcharge and correct fee bills, accounts and settlements, with their debits and credits, and all claims against the treasury allowed and approved by any court in the Commonwealth to any person.

(4) Actions to recover any fraudulent, erroneous or illegal account, fee bill, charge, credit or claim approved and allowed or paid out of the treasury to any person.

(5) The defendant in any action brought in Franklin circuit court *or Franklin district court* under the provisions of subsection (1) of this section for the collection of taxes assessed under KRS Chapter 141 shall at any time prior to the submission for judgment upon proper motion have a change of venue to the county in which he resides or his principal office or place of business is located at no cost to the defendant in Franklin circuit court *or Franklin district court.*

Section 38. KRS 243.700 and 243.870are repealed.

Section 39. The provisions of sections eight (8) through seventeen (17) of this Act shall apply to taxable years beginning after December 31, 1977.

The Committee Amendment No. 1 to **HB 216** is as follows:

Amend printed copy of **HB 216**, page 2, lines 8 through 26, by deleting lines 8 through 26 in their entirety;

and on page 3, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 4, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 5, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 6, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 7, lines 1 through 9, by deleting lines 1 through 9 in their entirety;

and on page 7, line 10, by deleting "Section 3" and inserting in lieu thereof "Section 2";

and on page 8, line 1, by deleting "Section 4" and inserting in lieu thereof "Section 3";

and on page 8, line 15, by deleting "Section 5" and inserting in lieu thereof "Section 4";

and on page 9, line 22, by deleting "Section 6" and inserting in lieu thereof "Section 5";

and on page 11, lines 10 through 26, by deleting 10 through 26, in their entirety and inserting in lieu thereof "Section 6. KRS 140.065, Estates of Three Million Dollars or more subject to Estate tax, is repealed."

and on page 11, after line 26, by inserting "SECTION 7. A NEW SECTION OF KRS CHAPTER 140 IS CREATED TO READ AS FOLLOWS:

(1) When the net tax due from a beneficiary's distributive share exceeds five thousand dollars ($5000), the beneficiary may elect to pay the inheritance tax in ten (10) equal installments. The first installment shall be due at the time the return is filed with succeeding payments due in annual installments beginning one (1) year after the return is filed.

(2) The portion of the tax deferred under this section shall be charged with interest at eight (8) percent per annum commencing eighteen (18) months after the date of death.

(3) When the beneficiary elects to pay the tax on his share as provided in this section, such election must be made in writing and signed by the beneficiary and must be filed with the department of revenue at the time of filing the tax return for the decedent's estate under KRS 140.160(2). The filing of the election together with payment of the first installment shall relieve the personal representative or trustee of the estate from

further liability for the tax payments deferred under this section and the bond requirements of KRS 140.210, subject to the final approval by the department of revenue of all other taxes due under this chapter.

(4) A beneficiary electing to defer the payment of taxes under this section shall be personally liable for the amount of deferred taxes until paid.

(5) The period of limitations for actions to enforce the collection of taxes imposed by this chapter as provided by KRS 140.160(3) shall be suspended for the period of time for deferred payment granted by this section.";

and on page 14, line 8, by deleting "above" and inserting in lieu thereof "thereof";

and on page 23, line 8, by deleting "self-improvement" and inserting in lieu thereof "self-employment";

and on page 44, lines 19 through 16, by deleting lines 19 through 26 in their entirety;

and on page 45, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 46, lines 1 through 26, by deleting lines 1 through 26 in their entirety;

and on page 47, lines 1 through 21, by deleting lines 1 through 21 in their entirety;

and on page 47, line 22, by deleting "Section 22" and inserting in lieu thereof "Section 21";

and on page 49, line 13, by deleting "Section 23" and inserting in lieu thereof "Section 22"

and on page 51, line 26, by deleting "Section 24" and inserting in lieu thereof "Section 23";

and on page 52, line 9, by deleting "Section 25" and inserting in lieu thereof "Section 24";

and on page 58, line 10, by deleting "Section 26" and inserting in lieu thereof "Section 25";

and on page 61, line 4, by deleting "Section 27" and inserting in lieu thereof "Section 26";

and on page 61, line 26, by deleting "Section 28" and inserting in lieu thereof "Section 27";

and on page 64, line 11, by deleting "Section 29" and inserting in lieu thereof "Section 28";

and on page 66, line 3, by deleting "Section 30" and inserting in lieu thereof "Section 29";

and on page 68, line 10, by deleting "Section 31" and inserting in lieu thereof "Section 30";

and on page 68, line 22, by deleting "Section 32" and inserting in lieu thereof "Section 31";

and on page 69, line 26, by deleting "Section 33" and inserting in lieu thereof "Section 32";

and on page 72, line 9, by deleting "Section 34" and inserting in lieu thereof "Section 33";

and on page 73, line 5, by deleting "Section 35" and inserting in lieu thereof "Section 34";

and on page 76, line 5, by deleting "Section 36" and inserting in lieu thereof "Section 35";

and on page 78, line 16, by deleting "Section 37" and inserting in lieu thereof "Section 36";

and on page 79, line 24, by deleting "Section 38" and inserting in lieu thereof "Section 37";

and on page 79, line 25, by deleting "Section 39" and inserting in lieu thereof "Section 38"

The Committee on Health and Welfare reported **HB 758** and **HB 686**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 758, AN ACT relating to glue.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:
No person shall distribute or sell, or cause to be distributed or sold, within the Commonwealth, any glue or cement containing a solvent or chemical having the property of releasing toxic vapors or fumes which when inhaled may cause a condition of intoxication, inebriation, or stupefaction unless there has been added to such glue a sufficient quantity of an additive, approved by the commissioner of the bureau for health services, which shall act as a deterrent, and not be harmful or toxic to the human body.

Section 2. Any person who violates the provisions of Section 1 of this Act shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 3. This Act shall become effective January 1, 1979.

HB 686, AN ACT relating to mental health and mental retardation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.370 is amended to read as follows:
Any combination of cities or counties of over 50,000 population, and upon the consent of the secretary for human resources, any combination of cities or counties with less than 50,000 population, may establish a regional community mental health *and mental retardation* services program and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community mental health-*mental retardation* board established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

Section 2. KRS 210.380 is amended to read as follows:
Every combination of cities and counties establishing a regional community mental health *and mental retardation* services program shall, before it comes within the provisions of KRS 210.370 to 210.460, establish a community mental health-*mental retardation* board consisting of at least nine (9) members. When a nonprofit corporation is the administrator of such a program not established by a combination of either cities or counties, such corporation shall select a community mental health-*mental retardation* board which shall be representative of the groups herein enumerated, but the number of members need not be nine (9). When any combination of cities and counties establishes a regional community mental health *and mental retardation* services program, the chief executive officer of each participating city or county shall appoint two (2) members to a selecting committee which shall select the members of the board. Membership of the community mental health-*mental retardation* boards shall be representative of the elected chief executives of county governments, local health departments, medical societies, county welfare boards, hospital boards, lay associations concerned with mental health *and mental retardation* as well as labor, business and civic groups and the general public.

Section 3. KRS 210.390 is amended to read as follows:
The term of office of each member of the community mental health-*mental retardation* board shall be for four (4) years measured from the first day of the year of appointment except that of the members first appointed, three (3) shall be appointed for a term of two (2) years, three (3) for a term of three (3) years, and three (3) for a term of four (4) years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Section 4. KRS 210.400 is amended to read as follows:
Subject to the provisions of this section and the *policies* [rules] and regulations of the secretary for human resources, each community mental health-*mental retardation* board shall*:* [,]

(1) Review and evaluate mental health *and mental retardation* services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary for human resources, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities.

(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources,

and promote public support for municipal and county appropriations.

(3) Promote, arrange and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies.

(4) [Advise the administrator of the community mental health program on the] Adopt [ion] and implement [ation of] policies to stimulate effective community relations.

(5) *Develop and approve an* [Review the] annual plan and budget [and make recommendations thereon]; [and]

(6) [When so determined by the authority establishing the program,] Act as the *administrative authority* [administrator] of the *community mental health and mental retardation* program*; and*

(7) Operate the community mental health and mental retardation program in accordance with the plan and budget and policies and regulations issued under this Act by the secretary of the department for human resources.

Section 5. KRS 210.405 is amended to read as follows:

(1) Any regional community mental health-*mental retardation* board established pursuant to KRS 210.380 and recognized by the secretary for human resources may be appointed and act as executor, administrator, guardian or committee, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state. Bond shall not be required of the board.

(2) Whenever a person who has been adjudged incompetent and requires mental health services has no committee, the board, acting through its designated officer, may apply to the district court of the county in which the adjudication was made for its appointment as committee for such incompetent person. The board may also apply to be substituted as committee for an incompetent whose committee is the department for human resources and who has been discharged or whose discharge is imminent from a department for human resources facility.

(3) Upon the death of a person for whom the board has been appointed committee leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 6. KRS 210.410 is amended to read as follows:

(1) The secretary for human resources is hereby authorized to make *state and federal fund allocations* [grants] to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health *and mental retardation* programs *which shall* [to] provide at least [four (4) of] the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d) and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers. The services required in subsection (1), (a), (b), (c), (d), (e) and (f) shall be available to the mentally retarded.

[(1) Collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, and other psychiatric disabilities;

(2) Informational and educational services to the general public, and lay and professional groups;

(3) Consultative services to schools, courts and health and welfare agencies, both public and private;

(4) In-patient treatment services;

(5) Out-patient diagnostic and treatment services;

(6) Rehabilitative services for patients suffering from mental or emotional disorders, mental retardation or other psychiatric conditions, particularly those who have received prior treatment in an in-patient facility;

(7) Detoxification units to provide appropriate medical, psychological and social services for intoxicated persons, including but not limited to, initial examination, diagnosis, classification and referral;

(8) Out-patient treatment services for persons with drug abuse and addiction problems and programs of drug abuse and addiction education.]

Section 7. KRS 210.420 is amended to read as follows:

Except as hereinafter provided, *funding* [grants] for any program shall not exceed fifty per cent (50%) of the total expenditures for (1) salaries, (2) contract facilities and services, (3) operation, maintenance and service costs, (4) per diem and travel expenses for members of the community mental health-*mentally retarded* boards, and (5) other expenditures specifically approved by the secretary for human resources. No *funding* [grants] shall be made for capital expenditures. *Funding* [Grants] may be made for expenditures for mental health *and mental retardation* services whether provided by operation of a local facility or through contract with other public or private agencies.

Section 8. KRS 210.430 is amended to read as follows:

Any community mental health-*mental retardation* board or nonprofit corporation administering a mental health *and mental retardation* services program may apply for the assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary for human resources its plan, budget and membership of the board for the next fiscal year [together with the recommendation of the community mental health board thereon]. No program shall be eligible for *funding* [a grant] hereunder unless its plan and budget have been approved by the secretary for human resources and no program shall be eligible for *funding* [a grant] hereunder unless the board composition is reasonably representative of those groups enumerated in KRS 210.380.

Section 9. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary for human resources shall allocate available funds to the mental health-*mental retardation* boards or nonprofit organizations for disbursement during the fiscal year in accordance with such approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the *operations,* budgets and expenditures of the various programs and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program, *or component part thereof,* which is not being *operated and* administered in accordance with its approved plan and budget, *and the policies and regulations of the department promulgated pursuant to this Act.*

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and regulations of the department, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonproft organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including but not limited to their financial record keeping, their personnel management operations and their financial and program reporting; and

(b) Make whatever personnel changes are deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the department.

Section 10. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the Secretary for Human Resources shall:

(1) Promulgate *policies* [rules] and regulations governing eligibility of community mental health *and mental retardation* programs to receive *funding* [state grants], prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, *governing financial record keeping, prescribing standards for personnel management operations, providing for financial and program reporting requirements,* and such other *policies* [rules] and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health- *mental retardation* boards and program administrators;

(3) Provide consultative staff service to communities to assist in ascertaining local needs and in planning and establishing community mental health *and mental retardation* programs; [and]

(4) Employ *necessary and* qualified personnel [, including a director of community mental health services,] to implement KRS 210.370 to 210.460*; and*

(5) Review and approve annually the community mental health-mental retardation boards' personnel policies, procedures and personnel compensation plans.

Section 11. KRS 210.460 is amended to read as follows:

In order to provide the necessary funds to establish and operate a mental health *and mental retardation* services program and to establish and maintain a clinic, any city or county coming under the provisions of KRS 210.370 to 210.460 may contribute its proportionate share of the cost of the program, to be apportioned on a population basis, by direct appropriation from its general tax fund or by allocating therefor the proceeds of a special tax for the support of the program. The cost shall be deemed for all purposes a proper county expense.

Section 12. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health *and mental retardation* taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health *and mental retardation* services program under KRS 210.380, a mental health *and mental retardation* taxing district is hereby declared to be created.

(3) The members of the community mental health-*mental retardation* board recognized by the secretary for human resources pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health *and mental retardation* taxing district and shall perform the duties attendant thereto in addition to their duties as members of the community mental health-*mental retardation* board. Officers of the community mental health-*mental retardation* board shall be the officers of the mental health *and mental retardation* taxing district.

Section 13. KRS 210.480 is amended to read as follows:

(1) If, after the establishment of the mental health *and mental retardation* taxing district as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying authorities in member areas of the district, in the opinion of the community mental health board, do not appropriate an amount sufficient to meet the needs of the mental health *and mental retardation* services program and clinic, as established pursuant to KRS 210.370, the community mental health-*mental retardation* board, acting as the governing body of the taxing district shall, with the approval of the state department for human resources, request the fiscal courts in each of the member areas which have not contributed a sufficient proportionate share of the cost of the program, to impose a special ad valorem mental health *and mental retardation* tax in such amount that it deems sufficient, but not in excess of four cents (4¢) per one hundred dollars ($100) of full assessed valuation. The fiscal court may, upon receipt of a duly certified copy of said request, include in the next ad valorem tax levy said special mental health *and mental retardation* tax imposed by the mental health-*mental retardation* board which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special mental health *and mental retardation* tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the community mental health-*mental retardation* board to be used for the maintenance and operation of the mental health *and mental retardation* services program and clinic as provided in KRS 210.460. No appropriation for a mental health *and mental retardation* services program and clinic established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-*mental retardation* board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2.

(2) Nothing contained herein shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health *and mental retardation* services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

The Committee Substitute to **HB 686** is as follows:

HB 686, AN ACT relating to mental health and mental retardation.
Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.370 is amended to read as follows:
Any combination of cities or counties of over 50,000 population, and upon the consent of the secretary for human resources, any combination of cities or counties with less than 50,000 population, may establish a regional community mental health *and mental retardation* services program and staff same with persons specially trained in psychiatry and related fields. Such programs and clinics may be administered by a community mental health*-mental retardation* board established pursuant to KRS 210.370 to 210.460, or by a nonprofit corporation.

Section 2. KRS 210.380 is amended to read as follows:
Every combination of cities and counties establishing a regional community mental health *and mental retardation* services program shall, before it comes within the provisions of KRS 210.370 to 210.460, establish a community mental health*-mental retardation* board consisting of at least nine (9) members. When a nonprofit corporation is the administrator of such a program not established by a combination of either cities or counties, such corporation shall select a community mental health*-mental retardation* board which shall be representative of the groups herein enumerated, but the number of members need not be nine (9). When any combination of cities and counties establishes a regional community mental health *and mental retardation* services program, the chief executive officer of each participating city or county shall appoint two (2) members to a selecting committee which shall select the members of the board. Membership of the community mental health*-mental retardation* boards shall be representative of the elected chief executives of county governments, local health departments, medical societies, county welfare boards, hospital boards, lay associations concerned with mental health *and mental retardation* as well as labor, business and civic groups and the general public.

Section 3. KRS 210.390 is amended to read as follows:
The term of office of each member of the community mental health*-mental retardation* board shall be for four (4) years measured from the first day of the year of appointment except that of the members first appointed, three (3) shall be appointed for a term of two (2) years, three (3) for a term of three (3) years, and three (3) for a term of four (4) years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Section 4. KRS 210.400 is amended to read as follows:
Subject to the provisions of this section and the *policies* [rules] and regulations of the secretary for human resources, each community mental health*-mental retardation* board shall*:* [,]
(1) Review and evaluate mental health *and mental retardation* services provided pursuant to KRS 210.370 to 210.460, and report thereon to the secretary for human resources, the administrator of the program, and, when indicated, the public, together with recommendations for additional services and facilities*;* [.]
(2) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources, and promote public support for municipal and county appropriations*;* [.]
(3) Promote, arrange and implement working agreements with other social service agencies, both public and private, and with other educational and judicial agencies*;* [.]
(4) [Advise the administrator of the community mental health program on the] Adopt [ion] and implement [ation of] policies to stimulate effective community relations*;* [.]
(5) *Be responsibile for the development and approval of an* [Review the] annual plan and budget [and make recommendations thereon]; [and]
(6) [When so determined by the authority establishing the program,] Act as the *administrative authority* [administrator] of the *community mental health and mental retardation* program*; and*
(7) Oversee and be responsible for the management of the community mental health and mental retardation program in accordance with the plan and budget and policies and regulations issued under this Act by the secretary of the department for human resources.

Section 5. KRS 210.405 is amended to read as follows:
(1) Any regional community mental health*-mental retardation* board established pursuant to KRS 210.380 and recognized by the secretary for human resources may be appointed and act as executor, administrator, guardian or committee, as provided in this section. In this capacity, the board may transact business in the same manner as any individual and for this purpose may sue and be sued in any of the courts of the state.

Bond shall not be required of the board.

(2) Whenever a person who has been adjudged incompetent and requires mental health services has no committee, the board, acting through its designated officer, may apply to the district court of the county in which the adjudication was made for its appointment as committee for such incompetent person. The board may also apply to be substituted as committee for an incompetent whose committee is the department for human resources and who has been discharged or whose discharge is imminent from a department for human resources facility.

(3) Upon the death of a person for whom the board has been appointed committee leaving an estate and having no relatives at the time residing within the state, the board may apply for appointment as administrator and upon appointment shall close the administration of the estate.

(4) The board may invest funds held as fiduciary in bonds or other securities guaranteed by the United States, and may sell or exchange such securities in its discretion.

(5) The board shall receive such fees for its fiduciary services as provided by law. These fees shall be placed in a trust and agency account, from which may be drawn expenses for filing fees, court costs and other expenses incurred in the administration of estates. Claims of the board against the estates shall be considered in the same manner as any other claim.

Section 6. KRS 210.410 is amended to read as follows:

(1) The secretary for human resources is hereby authorized to make *state* grants *and other fund allocations from the department for human resources* to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health *and mental retardation* programs *which shall* [to] provide at least [four (4) of] the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d) and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1), (a), (b), (c), (d), (e) and (f) shall be available to the mentally retarded.

[(1) Collaborative and cooperative services with public health and other groups for programs of prevention of mental illness, mental retardation, and other psychiatric disabilities;

(2) Informational and educational services to the general public, and lay and professional groups;

(3) Consultative services to schools, courts and health and welfare agencies, both public and private;

(4) In-patient treatment services;

(5) Out-patient diagnostic and treatment services;

(6) Rehabilitative services for patients suffering from mental or emotional disorders, mental retardation or other psychiatric conditions, particularly those who have received prior treatment in an in-patient facility;

(7) Detoxification units to provide appropriate medical, psychological and social services for intoxicated persons, including but not limited to, initial examination, diagnosis, classification and referral;

(8) Out-patient treatment services for persons with drug abuse and addiction problems and programs of drug abuse and addiction education.]

Section 7. KRS 210.420 is amended to read as follows:

Except as hereinafter provided, grants *from state general funds* for any program shall not exceed fifty per cent (50%) of the total expenditures for (1) salaries, (2) contract facilities and services, (3) operation, maintenance and service costs, (4) per diem and travel expenses for members of the community mental health-*mental retardation* boards, and (5) other expenditures specifically approved by the secretary for human resources. No grants *from state general funds* shall be made for capital expenditures. Grants *from state general funds* may be made for expenditures for mental health *and mental retardation* services whether provided by operation of a local facility or through contract with other public or private agencies.

Section 8. KRS 210.430 is amended to read as follows:

Any community mental health-*mental retardation* board or nonprofit corporation administering a mental health *and mental retardation* services program may apply for the assistance provided by KRS 210.370 to 210.460 by submitting annually to the secretary for human resources its plan, budget and membership of the board for the next fiscal year [together with the recommendation of the community mental health board thereon]. No program shall be eligible for a *state* grant *and other fund allocations from the department for human resources* hereunder unless its plan and budget have been approved by the secretary for human resources and no program shall be eligible for a *state* grant *and other fund allocations from the department for* *human resources* hereunder unless the board composition is reasonably representative of those groups enumerated in KRS 210.380.

Section 9. KRS 210.440 is amended to read as follows:

(1) At the beginning of each fiscal year, the secretary for human resources shall allocate available funds to the mental health-*mental retardation* boards or nonprofit organizations for disbursement during the fiscal year in accordance with such approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the *operations,* budgets and expenditures of the various programs and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program, *or component part thereof,* which is not being *operated and* administered in accordance with its approved plan and budget, *and the policies and regulations of the department promulgated pursuant to this Act.*

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and regulations of the department, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonproft organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including but not limited to their financial record keeping, their personnel management operations and their financial and program reporting; and

(b) Make whatever personnel changes are deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the department.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsection (3) of this section shall be notified by the secretary for human resources thirty (30) days prior to such anticipated action by the secretary. Such notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for such anticipated action. Following such notification the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Apply for a public hearing before the secretary to show cause why such action should not stand. Such application shall be made within seven (7) days of the receipt of such letter from the secretary. The public hearing shall be scheduled by the secretary within ten (10) days of the application by the mental health-mental retardation board for such hearing.

Section 10. KRS 210.450 is amended to read as follows:

In addition to the powers and duties already conferred upon him by the law, the Secretary for Human Resources shall:

(1) Promulgate *policies* [rules] and regulations governing eligibility of community mental health *and mental retardation* programs to receive state grants *and other fund allocations from the department for human resources,* prescribing standards for qualification of personnel and quality of professional service and for in-service training and educational leave programs for personnel, governing eligibility for service so that no person will be denied service on the basis of race, color or creed, or inability to pay, providing for establishment of fee schedules which shall be based upon ability to pay, regulating fees for diagnostic services which services may be provided for anyone without regard to his financial status, when referred by the courts, schools, or health and welfare agencies whether public or private, *governing financial record keeping, prescribing standards for personnel management operations, providing for financial and program reporting requirements,* and such other *policies* [rules] and regulations as he deems necessary to carry out the purposes of KRS 210.370 to 210.460;

(2) Review and evaluate local programs and the performance of administrative and psychiatric personnel and make recommendations thereon to community mental health- *mental retardation* boards and program administrators;

(3) Provide consultative [staff] service, *by mental health and mental and mental retardation professionals qualified by education and training,* to communities to assist in ascertaining local needs and in planning and establishing community mental health *and mental retardation* programs; [and]

(4) Employ *necessary and* qualified personnel [, including a director of community mental health services,] to implement KRS 210.370 to 210.460*; and*

(5) Review annually the community mental health-mental retardation boards' personnel policies, procedures and personnel compensation plans and disapprove if not consistent with accepted standards of personnel and salary administration prescribed by the department.

Section 11. KRS 210.460 is amended to read as follows:

In order to provide the necessary funds to establish and operate a mental health *and mental retardation* services program and to establish and maintain a clinic, any city or county coming under the provisions of KRS 210.370 to 210.460 may contribute its proportionate share of the cost of the program, to be apportioned on a population basis, by direct appropriation from its general tax fund or by allocating therefor the proceeds of a special tax for the support of the program. The cost shall be deemed for all purposes a proper county expense.

Section 12. KRS 210.470 is amended to read as follows:

(1) It is the intent of this section to create a mental health *and mental retardation* taxing district by operation of law in each county coming under the provisions of KRS 210.370 to 210.460, in order to implement KRS 210.460.

(2) In all counties which have participated in the establishment of a regional community mental health *and mental retardation* services program under KRS 210.380, a mental health *and mental retardation* taxing district is hereby declared to be created.

(3) The members of the community mental health-*mental retardation* board recognized by the secretary for human resources pursuant to KRS 210.380 shall, by virtue of their office, constitute and be the governing board of the mental health *and mental retardation* taxing district and shall perform the duties attendant thereto in addition to their duties as members of the community mental health-*mental retardation* board. Officers of the community mental health-*mental retardation* board shall be the officers of the mental health *and mental retardation* taxing district.

Section 13. KRS 210.480 is amended to read as follows:

(1) If, after the establishment of the mental health *and mental retardation* taxing district as provided for in this section, KRS 210.460, and KRS 210.470, the tax levying authorities in member areas of the district, in the opinion of the community mental health board, do not appropriate an amount sufficient to meet the needs of the mental health *and mental retardation* services program and clinic, as established pursuant to KRS 210.370, the community mental health-*mental retardation* board, acting as the governing body of the taxing district shall, with the approval of the state department for human resources, request the fiscal courts in each of the member areas which have not contributed a sufficient proportionate share of the cost of the program, to impose a special ad valorem mental health *and mental retardation* tax in such amount that it deems sufficient, but not in excess of four cents (4¢) per one hundred dollars ($100) of full assessed valuation. The fiscal court may, upon receipt of a duly certified copy of said request, include in the next ad valorem tax levy said special mental health *and mental retardation* tax imposed by the mental health-*mental retardation* board which shall be in addition to all other county ad valorem taxes. If levied by the fiscal court, said special mental health *and mental retardation* tax shall be collected in the same manner as are other county ad valorem taxes and turned over to the community mental health-*mental retardation* board to be used for the maintenance and operation of the mental health *and mental retardation* services program and clinic as provided in KRS 210.460. No appropriation for a mental health *and mental retardation* services program and clinic established under KRS 210.370 shall be reduced or eliminated on the grounds that a special tax has been levied where the community mental health-*mental retardation* board requested the amount levied as a necessary supplement to that appropriation. Taxing districts organized pursuant to KRS 210.470 shall not be subject to the provisions of the compensating tax rate as defined by KRS 132.010 nor to Acts 1965 (1st Ex. Sess.), ch. 2. .

(2) Nothing contained herein shall be construed as precluding any city or county from appropriating or allocating funds in any other manner for the support of the regional mental health *and mental retardation* services program and clinic, pursuant to KRS 210.460, or any other statutory provision.

The Committee Amendment to the Committee Substitute to **HB 686** is as follows:

Amend printed copy of **HB 686/HCS,** page 16, line 16, by creting a new Section 14 to read as follows:

"Section 14. There is appropriated to the Department for Human Resources from the general fund of the Commonwealth $5,672,000 in fiscal year 1978-79 and $5,931,600 in fiscal year 1979-80 to implement the provisions of Sections 6, 7, 8, 9 and 10 of this Act."

The Committee on Education reported **HB 578** with Committee Amendment attached thereto, **HB 676**, and **HB 625** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 578, AN ACT relating to pupils in public common schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

No student shall be compelled to solicit or meet any kind of quota in a fund raising activity. Solicitations by students shall be on a completely voluntary basis and no grade changes or any other sanctions shall be imposed for refusal or failure of a student to engage in any solicitations or other fund raising activity. No public school shall promote or engage in a school wide fund raising project without the prior approval of the local board of education.

The Committee Amendment to **HB 578** is as follows:

Amend printed copy of **HB 578,** page 1, line 3, by inserting "(1)" before the word "No"

and by inserting after line 11 the following:

"(2) Nothing in this Act shall prohibit student participation in classes in which salesmanship is an integral part of the prescribed curriculum."

HB 676, AN ACT relating to health care malpractice claims at the University of Kentucky.

WHEREAS, there currently exists a crisis in the medical center of the University of Kentucky in the area of the cost and availability of health care malpractice liability insurance, and

WHEREAS, this crisis has made it extremely difficult for said medical center to attract and retain qualified professional personnel to provide quality health care and to teach, train and educate students enrolled in its educational institution in the skills of rendering medical care; and

WHEREAS, by reason of the foregoing the ability of the aforesaid medical center to perform its public functions and to render the public service for which it was created is in serious jeopardy; and

WHEREAS, the general assembly recognizes that the quality of education offered by the medical center of said university and the quality of the health care rendered to patients by said medical center and hospital staff members of the University of Kentucky are all matters that affect the health of the people of the state of Kentucky, and that the authorization of the creation of a basic coverage compensation fund by said university for its benefit with funds derived by it from sources other than general tax revenues of the state, and the appropriation of funds from time to time by the general assembly to pay health care malpractice judgments is for a public purpose and within the province of the Commonwealth; and

WHEREAS, unless legislative action is taken to alleviate this crisis, the quality of education offered and furnished by the aforesaid medical center and the quality of health care furnished at the hospital that is staffed by the faculty of the medical center of the University of Kentucky will be substantially reduced, all of which will have a materially adverse effect on the public health of the people of this state; and

WHEREAS, the Supreme Court of Kentucky has held that the legislature cannot commit itself to lend funds in the future as provided in this Act; and

WHEREAS, it is the intent and purpose of this amendment to create an excess coverage fund to consist of current and future appropriations if, as and when made by the legislature out of revenues then currently available to and expendable by it to pay malpractice judgments against the University of Kentucky upon exhaustion of the basic coverage compensation fund.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.940 is amended to read as follows:

(1) "Basic coverage compensation fund" means the fund which may be established by the University of Kentucky for the purpose of paying claims or judgments for personal injury or death to patients resulting from any tort or breach of duty based on health care services rendered or which should have been rendered by the University or its agents. This fund shall [also] include all annual contributions made to the fund by the university [together with any loans that may be made to it out of the state treasury from time to time].

(2) "Commissioner" means the commissioner of the executive department for finance and administration.

(3) "Agents" means members of the board of trustees of the university, its faculty, hospital staff, nurses, nurses' aides, volunteer workers, employes and students and all other persons involved in furnishing health care within the scope of their duties or courses of study in connection with the University of Kentucky. Employed physicians and dentists are agents of the university and within the scope of their duties when rendering professional services in emergencies and other special circumstances so long as such services do not constitute private practice for which the physician or dentist derives income.

(4) "University" means the University of Kentucky.

(5) "Excess coverage fund" means funds available through appropriations made by the general assembly to pay judgments hereunder upon exhaustion of the basic coverage compensation fund.

Section 2. KRS 164.941 is amended to read as follows:

(1) The board of trustees of the university may, at its election, establish a basic coverage compensation fund for the benefit and protection from liability of itself and its agents. Promptly after the board of trustees of said university has elected to establish a basic coverage compensation fund, the university shall pay to the state treasurer the sum of $350,000.

(2) Upon receipt of said payment of $350,000 the state treasurer shall create a separate account to be designated as the "basic coverage compensation fund, University of Kentucky" and there shall be credited to said fund the initial payment of $350,000, all income thereafter earned from the investment of said fund, *and* all contributions thereafter made by the university [and all sums loaned to said fund from the state treasury pursuant to the provisions of KRS 164.939 to 164.944]. Unexpended and unencumbered balances in any fund created hereunder shall be carried forward and be available for expenditure in succeeding fiscal years notwithstanding the provisions of KRS 45.230 or any other provision of the Kentucky Revised Statutes. No portion of said fund shall ever lapse to the general fund and income earned from the investment of funds standing to the credit of said account shall accrue and be credited thereto, notwithstanding the provisions of KRS 41.380 or any other provision of the Kentucky Revised Statutes. *Upon termination of said fund for any reason, the balance therein shall revert to the university.*

(3) The funds held in any fund created under KRS 164.939 to 164.944 shall be expended solely in payment of claims for liability arising in favor of any patient from treatment performed or furnished, or treatment that should have been performed or furnished by the university or its agents. The liabilities which said fund shall be created to discharge are all liabilities from acts or omissions to act which may have occurred since July 1, 1975 and which may occur in the future which no entity other than the university and its agents is or will be obligated either by law or contract to pay and discharge.

(4) No settlement shall be made of any claim for personal injury or death to any claimant arising out of the furnishing or failure to furnish medical care by the university and its agents, until and unless the board of trustees of the university, or its duly delegated agent or body has first approved of such settlement. The board of trustees of the university shall also have the right to determine whether or not an appeal shall be taken from any judgment rendered against it or its agents, when such claim is founded upon or arises out of the furnishing or failure to furnish medical care. Provided, however, that if the payment of a [settlement or a] judgment would involve *expenditures from appropriations of general funds of the Commonwealth* [a loan from the commonwealth] under the provisions of subsection (8) of this section [or if at the time of any such proposed payment of any settlement or judgment there is in existence an outstanding loan from the commonwealth,] then any payment from said fund must also be approved by the commissioner, or his delegate.

(5) Funds held in an account created hereunder may be disbursed by the commissioner only upon the written certification of the university, or its duly designated agent, of the amount to be disbursed and the name of the person or persons to whom such funds shall be paid.

(6) Annual contributions to said fund shall be made by the university in an amount which will be not less than one hundred fifty percent (150%) of the average amounts actually paid in each year on medical malpractice claims for the five (5) years next preceding the making of the annual contribution. *In the event the university terminates its commercial excess insurance coverage then said annual contributions shall be in the amount of $250,000 with the first contribution being due and payable within twelve (12) months next following the month in which such insurance is terminated.* Provided, however, that if the university and the commissioner shall at any time in the future, *based upon accepted actuarial principles,* mutually determine that an annual contribution in a lesser amount will not impair the adequacy of the fund to satisfy existing and potential health care malpractice claims for a period of one year, then an annual contribution in such lesser amount as may be determined may be made.

(7) The university shall be solely responsible for the investigation and servicing of all claims made against it arising out of medical malpractice and all costs, expenses and fees incurred in the investigation, servicing and defense of all such claims shall be borne and paid by the university.

(8) Claims *or judgments* certified to be paid by the university shall be paid in the order received by the commissioner. If *the basic coverage compensation* [any] fund created hereunder shall [not] at any time *fail to* have sufficient funds to pay all *judgments* [such claims], *then they* [claims received after the funds are exhausted] shall be paid out of the *excess coverage fund* [general fund of the commonwealth] upon certification of the obligation by the commissioner *and the university. Said excess fund shall be expended only upon exhaustion of the basic coverage compensation fund and any insurance from any source whatsoever.* [Any such funds drawn from the general fund shall be repaid with interest at the legal rate by the university at the earliest practicable time as determined by the commissioner.]

Section 3. KRS 164.942 is amended to read as follows:
The basic coverage compensation [Any] fund created hereunder may be terminated upon written application made to the commissioner by the university and a finding by the commissioner that other satisfactory and adequate arrangements have been made by the university to assure that both existing and future health care malpractice claims or judgments against itself will be paid and satisfied. [Upon the termination of any fund pursuant to this section, the full amount remaining in said fund upon termination less any outstanding indebtednesses shall promptly be repaid to the university.]

Section 4. KRS 164.943, University qualified as self insurer, is repealed.

HB 625, AN ACT establishing the Kentucky Higher Education Student Loan Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:
The general assembly of the Commonwealth of Kentucky hereby makes the following findings and determinations and promulgates the following statements of legislative intent:

(1) That the attainment by every citizen of his or her educational goals will inure to the general welfare, well-being and productivity of the Commonwealth. Accordingly, it is hereby determined and declared that providing higher education assistance to needy, qualified students is in the best interest of the Commonwealth and constitutes the implementation of a public purpose of statewide import of the Commonwealth.

(2) Pursuant to Sections 164.740 to 164.764 of the Kentucky revised statutes, the Kentucky higher education assistance authority has heretofore been created and has rendered valuable and material services to the Commonwealth and its citizens in the effectuation of the public policy stated in the foregoing subsection. Pursuant to said cited statutory authority, the Kentucky higher education assistance authority is legally authorized to make and to guarantee student loans, and is eligible to reinsure such student loans with the United States of America pursuant to the higher education act of 1965, as amended. The United States commissioner of education has been authorized to enter into insurance or reinsurance agreements with the Kentucky higher education assistance authority, and other lending institutions in the Commonwealth pursuant to which student loans have been made possible for the benefit, welfare and well-being and for the future benefit of citizens, residents and inhabitants of the Commonwealth.

(3) As a result of the education amendments of 1976 (P.L. 94-482) to the higher education act of 1965 (P.L. 89-329), provisions for federal reinsurance of student loans have been altered to provide that in any of the five (5) years immediately following the implementation of a program of state insurance of student loans the United States of America shall reinsure and in effect agree to reimburse the state program for losses up to the entire principal amount accruing and not paid in any such fiscal year. The education amendments of 1976 further provide, after an initial period as stated aforesaid, for continued federal reimbursements of the entire principal amount accruing and not paid until such time as the amount of reinsurance claims paid in any one year exceeds five percentum of insured loan amounts in repayment as of the end of the preceding federal fiscal year, at which time the federal reinsurance liability will be reduced to ninety percentum of the principal and interest until such time as the amount of such reinsurance claims exceeds nine percentum of insured loan amounts in repayment as of the end of the preceding federal fiscal year, at which time the federal reinsurance liability will be further reduced to eighty percentum, but in no event shall the federal reinsurance liability be reduced to less than eighty percentum of the principal and interest thereon so accruing. The education amendments of 1976 (P.L. 94-482) offer further incentives to states to establish insured student loan programs including the payment of certain administrative expenses to a state agency, the payment of interest on student loans directly by the federal government while qualified students are pursuing a course of education at an eligible institution, the payment of special allowances to holders of state insured student loans and the reimbursement of costs of collection to state student loan insurance agencies in the event of defaults.

(4) The general assembly hereby determines and declares that in order to continue the insured student loan program in Kentucky, to enable eligible lenders including banks and trust companies and the Kentucky

higher education assistance authority to be able to continue to make student loans available to qualified students and to ensure that the Commonwealth of Kentucky shall not lose the benefits of the insured student loan program, it is necessary that there be created a body corporate and politic to act as a financing agency and to assure that a secondary market for insured student loans be created and maintained, the actions and duties of such body corporate and politic to be carried out in such manner so as to assure that any student loans acquired by such entity have the benefit of state insurance with federal reinsurance to the end that the assets of the Commonwealth be not committed to such purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Board" means the board of directors of the corporation.

(2) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation pursuant to this Act.

(3) "Corporation" means the Kentucky higher education student loan corporation, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky created to perform essential governmental services.

(4) "Eligible institution" means any educational institution described as an eligible institution in the higher education act of 1965, as amended, which has, if required by the guarantee agency, a contract in force with the guarantee agency pursuant to the higher education act of 1965, as amended, and this chapter.

(5) "Eligible lender" means the Kentucky higher education assistance authority, a de jure political subdivision of the Commonwealth of Kentucky and the corporation and all other entities described as eligible lenders in the higher education act of 1965, as amended, which have in force a contract with the guarantee agency providing for loan guarantees to be issued by the guarantee agency to the subject entity under the higher education act of 1965, as amended, and this chapter.

(6) "Guarantee agency" means the Kentucky higher education assistance authority duly organized and existing pursuant to the statutory laws of the Commonwealth of Kentucky.

(7) "Qualified student" means a student (a) who qualifies for an insured student loan, and (b) who is a resident of the Commonwealth of Kentucky or who has been accepted for enrollment at or is attending an eligible institution within the Commonwealth of Kentucky.

(8) "Insured student loan" means an obligation representing advances of money to a qualified student evidenced by one or more promissory notes the payment of principal of and interest on which is insured by the guarantee agency and reinsured to the extent of not less than eighty percent (80%) of the principal amount thereof by the commissioner of education of the United States under the higher education act of 1965, as amended, or fully insured as to principal amount by the United States commissioner of education under the higher education act of 1965, as amended. As used in connection with the purchase, making or acquisition of insured student loans by the corporation, the term insured student loan shall further mean and refer to any contingent interest, security interest, pledge, commitment, chose in action or other property interest in any such loan.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The general assembly of the Commonwealth of Kentucky hereby finds and determines that in carrying out its functions, powers and duties as prescribed in this Act, the corporation will be performing vital public purposes in improving and promoting the public welfare and prosperity of the people of the Commonwealth of Kentucky by promoting the availability of higher educational opportunities. Accordingly, the corporation is constituted as and shall be an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly of the Commonwealth of Kentucky hereby finds and determines that as a result of the adoption of the education amendments of 1976 by the congress of the United States, being public law 94-482, it is essential, in order that the Commonwealth of Kentucky may continue to provide adequate educational opportunities to all of its citizens and residents, that the corporation be created and empowered to finance student loan operations in Kentucky by the issuance of its bonds and notes for the purpose of making and purchasing insured student loans.

(2) The general assembly hereby finds and declares further that in the performance of its duties, powers and responsibilities, the corporation will be performing essential public and governmental functions and shall be and constitute an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky for the purpose of promoting higher educational opportunities through a program of financing, making and purchasing of insured student loans.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky higher education student loan corporation.

(2) The Kentucky higher education student loan corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of five (5) members, two (2) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the council on higher education, the secretary of the executive department for finance and administration and the chairman of the Kentucky higher education assistance authority.

(4) Upon organization of the corporation, the governor shall appoint the two (2) directors from the general public to take office and to exercise all powers thereof immediately. Of the two (2) members of the corporation so appointed, one (1) shall continue in office for a term of four (4) years, and one (1) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. The executive director of the Kentucky higher education assistance authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter.

(12) The Kentucky higher education assistance authority (the "guarantee agency") shall provide technical, clerical and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the following powers:

(1) To make or participate in the making of insured student loans.

(2) To purchase or participate in the purchase of insured student loans, which purchase may be from eligible lenders.

(3) To sell or participate in the sale of insured student loans, which sale may be to eligible lenders or to the student loan marketing association.

(4) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing or causing to be made, purchased or serviced insured student loans by the corporation, including payment to the guarantee agency for services performed for the corporation.

(5) To procure insurance in respect of all student loans made or purchased by the corporation.

(6) To consent whenever it deems it necessary or desirable in the fulfillment of its corporate purposes to the modification of the rate of interest, time of payment of any installment of principal or interest or any other terms of any insured student loan to which the corporation is a party; provided, that no such consent shall be made or given if the effect of same would be to obviate insurance coverage in respect of any student loan.

(7) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on its obligations for a period not exceeding two (2) years from their date, consulting, advisory and legal fees and such other expenses as are necessary or incident to any such borrowing.

(8) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes.

(9) To make, execute and effectuate any and all agreements or other documents with any federal or state agency or any person, corporation, association, partnership or other organization or entity necessary to accomplish the purposes of this chapter.

(10) To accept appropriations, loans, grants, revenue sharing, devises, gifts, bequests and federal grants and any other aid from any source whatsoever and to agree to, and to comply with, conditions incident thereto.

(11) To sue and be sued in its own name and to plead and be impleaded.

(12) To maintain an office in the city of Frankfort, Kentucky, in conjunction with or in close proximity to the Kentucky higher education assistance authority and such other regional offices as may be required.

(13) To adopt an official seal and alter the same at pleasure.

(14) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties.

(15) To employ fiscal consultants, attorneys, counselors and such other consultants and employes as may be required in the judgment of the corporation and to fix and pay their compensation without limitation of the provisions of KRS Chapter 18 and KRS 16.640 from funds available to the corporation therefor.

(16) To invest any funds held in reserves or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the United States or its agencies and instrumentalities; provided, however, that the return on such investments shall not be violative of any laws and regulations regarding investment of the proceeds of any federal tax-exempt bond issue.

(17) To issue its bonds and notes for the purpose of carrying out its corporate powers and duties as set forth in this Chapter.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Obligations issued under the provisions of this chapter shall not be deemed to constitute a debt, liability or obligation of the state or a pledge of the faith and credit of the state, but shall be payable solely from the revenues or assets of the corporation. Each obligation issued under this chapter shall contain on the face thereof a statement to the effect that the corporation shall not be obligated to pay the same nor the interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the state is pledged to the payment of the principal of or the interest on such obligation.

(2) Expenses incurred by the corporation in carrying out the provisions of this chapter may be made payable from funds provided pursuant to this chapter and no liability shall be incurred by the corporation hereunder beyond the extent to which moneys shall have been so provided.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The corporation is hereby authorized to provide for the issuance, at one (1) time or from time to time, of not exceeding thirty million dollars ($30,000,000) in bonds of the corporation to carry out and effectuate its corporate purposes and powers. In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation. The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding five (5) years from their date or dates and bonds shall mature at such time or times not exceeding thirty (30) years from their date or dates, as may be determined by the corporation. The corporation shall determine the

form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any officer whose signatures or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(2) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions, if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same. The principal of and interest on any bonds issued by the corporation shall be payable solely and only from the proceeds derived by the corporation from insured student loans made and purchased from the proceeds of such bonds. No such bond proceeds may be expended for the purchase or making of any insured student loan unless such insured student loan is insured as to the principal and interest payments by the guarantee agency, and the guarantee agency has reinsured such insured student loan with the United States of American to the maximum extent permitted by the higher education act of 1965, as amended.

SECTION 9. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

In the discretion of the corporation any obligation issued under the provisions of this chapter may be secured by a trust agreement by and between the corporation and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such obligations may pledge or assign all or any part of the revenues or assets of the corporation, including, without limitation, insured student loans, insured student loan commitments, temporary loans, contracts, agreement and other security or investment obligations, the fees or charges made or received by the corporation, the moneys received in payment of insured student loans and interest thereon, including the proceeds of insurance thereon, and any other moneys received or due to be received by the corporation. Such trust agreement or resolution may contain such provisions for protecting and enforcing the rights and remedies of the holders of any such obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the purposes to which obligation proceeds may be applied, the disposition or pledging of the revenues or assets of the corporation, the terms and conditions for the issuance of additional obligations, and the custody, safeguarding and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of obligations, revenues or other money hereunder to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Any such trust agreement or resolution may set forth the rights and remedies of the holders of any obligations and of the trustee, and may restrict the individual right of action by any such holders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the corporation may deem reasonable and proper for the security of the holders of any obligations. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be paid from the revenues or assets pledged or assigned to the payment of the principal of and the interest on obligations or from any other funds available to the corporation.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The pledge of any assets or revenues of the corporation to the payment of the principal of or the interest on any obligations of the corporation shall be valid and binding from the time when the pledge is made and any such assets or revenues shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Nothing herein shall be construed to prohibit the corporation from selling any assets subject to any such pledge except to the extent that any such sale may be restricted by the trust agreement or resolution providing for the issuance of such obligations.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of this chapter shall be deemed to be trust funds to be held and applied solely as provided in this chapter. The resolution authorizing any obligations or the trust agreement securing the same may provide that any of such moneys may be temporarily invested pending the disbursement thereof and shall provide that any officer with whom, or any bank or trust company with which, such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as this chapter and such resolution or trust agreement may provide. Any such moneys or any other moneys of the corporation may be invested as provided in KRS 386.020.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any holder of obligations issued under the provisions of this chapter or any coupons appertaining thereto, and the trustee under any trust agreement or resolution authorizing the issuance of such obligations, except the rights herein given may be restricted by such trust agreement or resolution, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such trust agreement or resolution, or under any other contract executed by the corporation pursuant to this chapter, and may enforce and compel the performance of all duties required by this chapter or by such trust agreement or resolution to be performed by the corporation or by any officer thereof.

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any of the foregoing provisions of this chapter or any recitals in any obligations issued under the provisions of this chapter, all such obligations and interest coupons appertaining thereto shall be and are hereby made negotiable instruments under the laws of this state, subject only to any applicable provisions for registration.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Obligations issued under the provisions of this chapter are hereby made securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds, notes or obligations of the state is now or may hereafter be authorized by law.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The corporation is hereby authorized to provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which shall have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such obligations and, if deemed advisable by the corporation, for any corporate purpose of the corporation. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties and obligations of the corporation in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of obligations, insofar as such provisions may be appropriate therefor.

(2) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes,to the purchase, redemption or payment of such outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of such refunding obligations or in the trust agreement securing the same, to the payment of any interest on such refunding obligations and any expenses in connection with such refunding, such proceeds may be invested in direct obligations of, or obligations the principal of and the interest on which are unconditionally guaranteed by, the United States of America which shall mature or which shall be subject to redemption by the holders thereof, at the option of such holders, not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The corporation shall be authorized and empowered in connection with the issuance of its bonds and notes for student loan purposes pursuant to this chapter to establish in respect of such bonds and notes such reserve funds or replacement funds as may be required in the sound discretion of the board of directors of the corporation to enable the corporation to effectuate its proper public purposes. In the event any such reserve fund or replacement fund created by the corporation in connection with any such bond issue or note issue should, in violation of any contract made by the corporation with any bondholder or noteholder be monetarily deficient in any respect as of any date of accounting so stipulated by the corporation, the corporation shall immediately make formal request in writing to the secretary of the executive department for finance and administration, and to the governor of Kentucky that sums adequate to restore such reserve fund or replacement fund to its contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be included in the next succeeding executive budget, and that such budget request with recommendation for approval by the general assembly of an appropriated legislative appropriation by the general assembly to the corporation for the use and benefit of such reserve fund or replacement fund be submitted to such session of the general assembly. In the event the next scheduled regular session of the general assembly of Kentucky shall occur more than six (6) months after any such request by the corporation, the corporation shall request that sums adequate to restore such reserve fund or replacement fund to such contractually required level and to pay any overdue principal and interest on any outstanding bonds and notes of the corporation be made available from the governor's contingency fund, and if such funds are so made available the budget request hereinabove described in this section shall be correspondingly reduced.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The corporation shall, promptly following the close of each fiscal year, submit an annual report of its activities for the preceding year to the governor and the general assembly. Each such report shall set forth a complete operating and financial statement of the corporation during the year. The corporation shall also cause an annual audit to be made by a resident independent certified public accountant of its books, accounts, and records, with respect to its receipts, disbursements, contracts, mortgages, leases, assignments, loans and all other matters relating to its financial operations. The persons performing such audit shall furnish copies of the audit report to the secretary of the executive department for finance and administration, where they shall be placed on file and made available for inspection by the general public.

SECTION 18. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No member or other officer of the corporation shall be subject to any personal liability or accountability by reason of his execution of any obligations or the issuance thereof.

SECTION 19. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The corporation is authorized to accept and expend such moneys as may be appropriated from time to time by the general assembly or such moneys as may be received from any source including income from the corporation's operations, for effectuating its corporate purposes including, without limitation, the payment of the initial expenses of administration and operation and the establishment of a reserve or contingency fund to be available for the payment of the principal of and interest on any bonds or notes of the corporation.

SECTION 20. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The Kentucky higher education student loan corporation has been duly created an an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky. Accordingly, the Kentucky higher education student loan corporation shall not be required to pay any taxes and assessments to the Commonwealth of Kentucky, or any county, municipality or other governmental subdivision of the Commonwealth of Kentucky, upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this chapter, or upon any moneys, funds, revenues or other income held or received by the corporation and the notes and bonds of the corporation and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers; provided, however, that real property owned by the Kentucky higher education student loan corporation shall be exempt from all property taxation and special assessments of the state or political subdivisions thereof, but the corporation may agree to pay, in lieu of such taxes, such amounts as the corporation finds consistent with the cost to the state or political subdivision of supplying municipal services to the corporation and maintaining the economic feasibility of the corporation which payments such bodies are hereby authorized to accept.

SECTION 21. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

If any member, officer or employe of the corporation shall be interested either directly or indirectly, or shall be an officer or employe of or have an ownership interest in any firm or corporation interested directly or indirectly in any contract with the corporation, such interest shall be disclosed to the corporation and shall be set forth in the minutes of the corporation, and the member, officer or employe having such interest therein shall not participate on behalf of the corporation in the authorization of any such contract.

SECTION 22. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:
The foregoing sections of this chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing; provided, however, that the issuance of bonds or notes under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds or notes.

SECTION 23. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:
Upon termination or dissolution, all rights and properties of the corporation shall pass to and be vested in the Commonwealth of Kentucky, subject to the rights of lienholders and other creditors, unless the board of directors directs at such times that they be distributed among one (1) or more corporations, trusts, community chests, funds or foundations organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder, member or individual and no substantial part of whose activities consists of carrying on propaganda, or otherwise attempting to influence legislation.

The Committee amendment to **HB 625** is as follows:

Amend printed copy of **HB 625,** page 14, line 1, by inserting "." after the word "compensation" and by deleting the words "without limitation of the"

Lines 2 and 3 by deleting "provisions of KRS Chapter 18 and KRS 16.640 from funds available to the corporation therefor."

The Committee on State Government reported **HB 214,** with Committee Amendment No. 2 attached thereto, with the expression of opinion that the same should pass. Ordered delivered to the Committee on Rules.

The Committee Amendment No. 2 to **HB 214** is as follows:

Amend printed copy of **HB 214,** page 3, line 7, by deleting the following: "verbally or";

and on page 11, by inserting after line 19 the following language:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:
(1) Whenever the bureau of public properties in the executive department for finance and administration has reason to believe that there is no office or other space available to let that will be suitable to meet the space needs of one or more state agencies seeking the lease of space in a community where space is sought, and a determination has been made by the secretary of the executive department for finance and administration, with the approval of the governor, that the construction of a building by the Commonwealth to meet such need is not economically or otherwise feasible, the bureau may advertise for written proposals for the construction of a building meeting the agency or agencies' space requirements and to be leased to the Commonwealth under a built-to-suit lease as authorized by this section.
(2) Advertisements for all built-to-suit leases shall be published in a newspaper of general circulation in the county where the space is sought and on a state-wide basis as provided by KRS 424.180. Advertisements for proposals for all built-to-suit leases shall be made ninety (90), sixty (60), and thirty (30) days in advance of the date fixed for receiving and opening the proposals.
(3) The bureau shall develop, in consultation with the agency or agencies for whose use the space is sought, and with the assistance of the bureau of facilities management, general requirement specifications for the structure, which shall be set forth in outline form in the advertisement for proposals; the advertisement shall state that more detailed information about the space requirements and forms for submitting proposals may be obtained from the bureau of public properties; and the time, date and place that proposals will be received.
(4) Each proposal submitted for built-to-suit leases shall contain information about the proposed site for the building, an estimate of the cost of the building, information about the proposed plan or method of financing the construction of the building, and schematic drawings of the proposed building. All buildings constructed and leased to the Commonwealth under built-to-suit lease agreements shall be constructed in accordance with all applicable state and national safety, building and construction code requirements and the preliminary and final building construction plans shall be reviewed and approved by the bureau of facilities management.

(5) At the time, date and place fixed in the advertisement, all written proposals for built-to-suit leases received shall be opened and publicly read. The commissioner of the bureau, after consultation with the head or heads of the agency or agencies for whose use the space is sought, and with the advice and assistance of the bureau of facilities management, shall award the built-to-suit lease to the individual or firm whose proposal, in the judgment and discretion of the commissioner, most closely conforms to advertised general requirement specifications.

SECTION 10. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) The term of all built-to-suit lease agreements entered into by the Commonwealth under Section 9 of this Act shall conform to the requirements of all applicable statutory and constitutional provisions as construed by the Kentucky Supreme Court.

(2) When necessary to enable an individual or firm to whom a built-to-suit lease agreement has been awarded to obtain either short or long term financing for the erection of the building to be constructed under such lease, or desirable in the best interests of the Commonwealth, the Commonwealth may be granted and may accept as a part of said lease an option to purchase the leased buildings, land and any appurtenant facilities. The option price to be paid for any such property shall not exceed its fair market value as of the time the option is exercised as determined by a competent and qualified real estate appraiser, selected by mutual agreement of the parties, employing the reproduction cost new or other accepted appraisal techniques; provided, however, that in no event shall the option price be less than a sum equal to the remaining balance of any mortgage lien encumbering the property and securing the repayment of monies advanced to the owner for the original construction of the building, plus an amount not to exceed ten percent of such mortgage balance.

(3) All built-to-suit lease agreements shall be executed for the Commonwealth by the secretary of the executive department for finance and administration on recommendation by the commissioner of the bureau for public properties, approved for form and legality by the attorney general or an assistant attorney general, and approved by the governor, before they shall be binding against the Commonwealth. All such leases shall be lodged for record and recorded in the office of the county clerk of the county in which the leased property is located.

SECTION 11. A NEW SECTION OF KRS CHAPTER 56 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is determined by the department that office or other buildings are needed for use by the Commonwealth and its agencies, and it is determined by the secretary of the executive department for finance and administration, as chief financial adviser to the governor and the general assembly, that it is not economically feasible for such buildings to be constructed or acquired by any other financing method authorized by this chapter, such buildings may be constructed on state-owned land under built-to-suit lease agreements as authorized by this section. All such determinations shall be set forth in a written finding by the secretary and approved by the governor by executive order filed in the office of the secretary of state.

(2) All proposals for built-to-suit leases solicited under this section shall be advertised in the manner required by section 9 of this Act. The advertisement shall state that the built-to-suit lease wil be entered into pursuant to the provisions of this section and contain a general description of the property.

(3) Upon the execution of a lease awarded under this section, the Commonwealth shall convey to the individual or firm to whom such lease has been awarded, in fee simple with covenant of general warranty of title, the real estate upon which the building is to be constructed under this lease. The lease shall provide for an initial lease term commencing on the date the building is accepted for occupancy by the Commonwealth, but not later than thirty (30) days after the owner's architect has certified that construction of the building has been completed, and ending June 30 of the second year of the then current fiscal biennium of the Commonwealth, with an option in the Commonwealth, as lessee, to extend the term of the lease for a term of two (2) years from the expiration of the original term of the lease and for two (2) years from the expiration of each extended term of the lease, until the original term of the lease has been extended for a total number of years to be agreed upon by the parties at a rental which, if paid for the original term and for each of the full number of years for which the term of the lease may be extended, will amortize the total cost of the erection of the building and appurtenances. The rent shall be paid at such times as the parties to the lease agreed upon. The lease shall provide that the lessee may, at the expiration of the original or any extended term, purchase the leased premises at a stated price, which shall be the balance of the total cost of erection of the building and appurtenances not amortized by the payments of rent previously made by the lessee. The lease shall provide that in the event of the exercise of the option to purchase the leased premises or in the event the lease has been extended for the full number of years which it is agreed the same may be extended, and all rents and payments provided for in the lease have been made, the lessor shall convey the premises to the lessee in fee simple with covenant of general warranty of title. The lease may provide that the lessee shall, as additional rent for the leased premises, pay all taxes assessed against the leased premises, and the cost of insuring the building erected thereon against loss or damage by fire and windstorm in such sum as may be agreed by the parties thereto."

The Committee on State Government reported **HB 761** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 761, AN ACT relating to bills and resolutions presented to the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise provided in this Act, the general assembly shall not consider any bill or resolution of a state department, bureau, agency, commission or other executive unit of state government unless it is submitted to the legislative research commission no later than the first day of October preceding the convening of a regular session of the general assembly. If the governor has been newly elected in the November preceding the convening of a regular session of the general assembly, a bill or resolution of any state department, bureau, agency, commission or other executive unit of state government shall be submitted to the legislative research commission within thirty (30) days after the governor is administered the oath of office.

(2) Each bill shall be presented to the director of the legislative research commission by the executive department, bureau, agency, commission, or other executive unit of state government. The bill shall clearly designate, under the title, the agency upon whose behalf the bill or resolution is submitted.

(3) Any executive agency bill or resolution submitted to the legislative research commission after the first day of October shall be considered submitted late except as provided in subsection (1) of this section. All requests for permission to submit bills or resolutions late shall be transmitted to the legislative research commission. The commission shall ascertain from the department, bureau, agency, or executive unit of government the facts supporting the submission of the measure notwithstanding expiration of the period for submission of bills. If two-thirds (2/3) of the commission approves, the bill may then be submitted and prefiled or filed, as the case may be. The space on the bill denoting the proponent agency shall also indicate that the bill was approved for late submission by the legislative research commission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) Each state department, bureau, agency, commission or other executive unit of state government submitting bills to or for consideration by the general assembly shall appoint a person within that agency to serve as legislative liaison. The legislative liaison shall be an attorney if one is employed by the agency. The duties of the legislative liaison are:

(a) Coordination of bill requests for the agency;
(b) Review all agency bill drafts for correctness of content and form;
(c) Coordination of responses to legislative questions about bill drafts submitted by the agency.

(2) Within six (6) months of his appointment as legislative liaison and no less than three (3) months before any regular session of the general assembly the person appointed as legislative liaison shall successfully complete an orientation in bill drafting and general assembly procedures as given by the legislative research commission.

(3) All bills submitted by any state department, bureau, agency, commission or other executive unit of state government shall be accompanied by a memorandum from the legislative liaison for the department stating that he has reviewed the drafts and finds them to be correct as to content and form. Bills not having the accompanying memorandum shall not be accepted by the legislative research commission.

(4) No portion of this Act is intended to abrogate or diminish the responsibilities of the legislative research commission as specified in the Kentucky Revised Statutes or in the Rules of the House of Representatives or the Senate.

SECTION 3. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission shall make available to state agencies an orientation course in bill drafting and general assembly procedures. No charge shall be made to a state agency for such instruction.

(2) Where vacancies exist in orientation courses in bill drafting and general assembly procedures, any person may attend such course upon payment of a fee to be set by the legislative research commission.

The Committee on cities reported **HB 727** and **HB 238,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 727, AN ACT relating to urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.270 is amended to read as follows:

(1) The appointing authority shall make all civil service appointments, and the appointments shall be made only from the list of applicants certified by the civil service commission after examination. Appointments shall be made only by the selection of one of the three holding the highest averages in the particular class and grade wherein the vacancy exists, except as provided in subsection (6) and (7) of this section.

(2) Whenever it is imperative to fill a vacancy in classified civil service before the commission can certify a list of as many as three persons eligible for appointment after competitive examination, the appointing authority shall nominate a competent person from the same class or next lower rank to the commission and if certified by the commission as qualified he may be appointed temporarily to fill the vacancy until an appointment can be made after competitive examination. Temporary appointments hereunder and under subsection (3) hereof shall continue only until a regular appointment can be made from the eligible list prepared by the commission.

(3) In the circumstances described in subsection (2) hereof, when no one upon the eligible list, or by promotion from the same class or the next lower rank is available, competent and qualified, a temporary appointment may be made by the appointing authority without examination. In no case shall appointment hereunder or under subsection (2) hereof continue longer than ninety days; and in no case shall successive appointments be made of the same person or other persons, to such vacancies, except hereunder or under subsection (2) of this section.

(4) Where the service to be rendered by an appointee in the classified service is for a temporary period as provided herein, the appointing authority shall select for that temporary service a person on the list of those eligible for permanent appointment, if such person accepts such appointment. Successive temporary appointments to the same position shall not be made under this provision. The acceptance or refusal by an eligible applicant of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall temporary service be counted as part of the probationary service in case of subsequent appointment to a permanent position.

(5) Temporary appointments made by reason of these provisions, made necessary by reason of illness or disability of regular employes, may continue during such period of disability, but shall continue only during such period of disability and in no case longer than nine months. No other temporary appointments other than those provided for herein may be made, except that seasonal appointments may be made for periods not in excess of six months.

(6) Seniority, in the executive unit in which the vacancy occurs, and seniority in the level or rank of employment nearest the level or rank in which the vacancy occurs, shall each be given material consideration in filling such vacancies as shall occur in the classified civil service. Within six months after June 21, 1974, or within six months after the effective date of the urban-county government, there shall be established by comprehensive plan or ordinance (which function may be delegated to the commission, or to the executive unit charged with personnel matters subject to the control of the commission), a plan which in definite terms complies with this subsection. The said plan may be amended from time to time in accordance with the comprehensive plan or ordinance, but the effective date of any alteration therein shall be no sooner than 180 days after its adoption. Such plan shall provide for and describe in reasonable detail the circumstances, if any, under which the seniority described therein shall be the sole criteria for promotion, and the circumstances in which it will not, and in the latter case, shall provide a reasonably definite method by which applicants shall be entitled to an increase on their examination or evaluation scores by reason of such seniority, the relative importance of each such type of seniority in such determination, and the percentage increase in such scores for such seniority. The circuit court of the county in which the urban-county government is located shall have jurisdiction to determine the reasonableness of such plan and alterations thereto, and its compliance with the principles set out in this subsection.

(7) In case of vacancy in the classified service, where peculiar and exceptional qualifications of a particular professional or educational character are required, upon satisfactory evidence that for reasons stated in writing by the appointing authority the commission may suspend the provisions requiring competitive examination under civil service.

(8) No person shall be certified by the commission from an eligible list more than two times to the same appointing authority for the same or similar positions.

(9) The legislative body may by ordinance provide that any person who successfully completed his probationary period and subsequently ceased working in a position in the classified civil service, for reasons other than dismissal, may be restored to the office or position he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one year following separation from the service and shall be reinstated only with the approval of the appointing authority.

Section 2. KRS 95.440 is amended to read as follows:

(1) The legislative body in cities of the second and third classes and urban-county governments shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications for office, including their knowledge of the English language and the law and rules governing the duties of the position applied for.

(2) Each member of the police or fire department in cities of the second and third classes and urban-county governments shall be a qualified voter in the county containing the city of employment, able to read, write and understand the English language, and have such other qualifications as may be prescribed. No person shall be appointed a member of the police or fire department unless he is a person of sobriety and integrity and is and has been an orderly, law-abiding citizen. In a city of the second class or urban-county government no person shall be appointed a member of either of such departments if he is over fifty (50) years of age.

(3) Members of the police and fire departments in cities of the second and third classes or urban-county governments qualified under this section shall hold their positions during good behavior, except that the legislative body may decrease the number of policemen or firemen as it may deem proper.

(4) If the legislative body of a city of the second or third class or urban-county government decreases the number of policemen or firemen, the youngest members in point of service shall be the first to be released and returned to the eligible list of the department, there to advance according to the rules of the department.

(5) The legislative body in an urban-county government may by ordinance provide that any policeman or firefighter who has successfully completed his probationary period and subsequently ceased working for the police or fire department for reasons other than dismissal may be restored to the position, rank and pay he formerly held if he so requests in writing to the appointing authority. Such person shall be eligible for reinstatement for a period of one year following his separation from the police or fire department and shall be reinstated only with the approval of the appointing authority.

HB 238, AN ACT relating to the merger of police and fire departments in cities of the fourth, fifth and sixth classes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

The legislative body of any city of the fourth, fifth or sixth class may unify and merge all or any portion of the duties and responsibilities of the police department and the fire department into a single department of public safety. This authority is granted notwithstanding any existing statutes applicable only to a police department and its officers or to a fire department and its officers. The provisions of KRS Chapter 95 relating jointly to police and firemen, including but not limited to appointment, discipline and retirement, shall continue to apply.

The Committee Amendment to **HB 238** is as follows:

Amend printed copy of **HB 238,** page 1, on line 6, by inserting after the words "fire department" the following: "upon an agreement with the officers and employes of both departments to do so";

and on page 1, line 9, by inserting after the word "officers" the words: "and employes";

and on page 1, line 10, by inserting after the word "officers" the words: "and employes".

Representative B. Richardson moved that no other business be conducted from the floor on this day other than Report of Committees. Agreed.

Recess

Representative B. Richardson moved that the House recess for a meeting of the Committee on Rules. Agreed.

At the appointed hour, Representative Fitzgerald assumed the Chair and called the House to order.

Report of Committees (Continued)

The Committee on Rules reported **HB 457, HB 532, HB 535, HB 559, HB 154, HB 293, HB 463, HB 321, HB 638, HB 8, HB 384, HB 420, HB 501, HB 545, HB 566, HB 622, HB 665, HB 683, HB 684, HB 693, HB 710, HB 714, HB 752, HB 634, SB 123, SB 114, SB 118,** and **HJR 35** have been posted for passage in Orders of the Day, March 6, 1978.

The Committee on Rules reported **HB 305, HB 657,** and **HB 153** have been recommitted to the Committee on State Government.

The Committee on Rules reported **HB 493** and **HB 546** have been recommitted to the Committee on Appropriations and Revenue.

Adjournment

Representative B. Richardson moved that the House adjourn until 3:00 p.m., Monday, March 6, 1978.

The House adjourned by voice vote.